# *United States Court of Appeals*
# *for the Second Circuit*

# APPENDIX

# NO. 77-4001

## United States Court of Appeals

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

SCIENTIFIC PEST CONTROL CORPORATION; LOCAL 522,
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS OF AMERICA,
Respondents.

ON APPLICATION FOR ENFORCEMENT OF AN ORDER
OF THE NATIONAL LABOR RELATIONS BOARD

## APPENDIX

ELLIOTT MOORE,
*Deputy Associate General Counsel,*
*National Labor Relations Board.*
Washington, D. C. 20570.

B

P/s

UNITED STATES COURT OF APPEALS
FILED
MAR 31 1977
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SECOND CIRCUIT

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BEFORE THE NATIONAL LABOR RELATIONS BOARD

29th REGION

-------------------------------------------------------x

In the Matter of: :

SCIENTIFIC PEST CONTROL CORPORATION :

-and- :

EXTERMINATORS, FUMIGATORS & TERMITE WORKERS :
LOCAL 155 SERVICE EMPLOYEES INTERNATIONAL
UNION AFL-CIO, :

-and- :

Case Nos.
29-CA-4236
29-CB-2058

LOCAL 522, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, :
CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, :

Party to the Contract, :

LOCAL 522, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, :
CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, :

-and- :

EXTERMINATORS, FUMEGATORS & TERMITE WORKERS, :
LOCAL 155 SERVICE EMPLOYERS INTERNATIONAL UNION :
AFL-CIO, :

-and- :

SCIENTIFIC PEST CONTROL CORPORATION, :

Party to the Contract. :

-------------------------------------------------------x

16 Court Street
Brooklyn, New York
September 22, 1975

BEFORE:

JOHN M. DYER, Administrative Law Judge

APPEARANCES:

| | |
|---|---|
| JACK EISENBERG, ESQ. | 16 Court Street, Brooklyn, New York, appearing on behalf of the General Counsel. |
| LEONARD KIMMELL, ESQ. | Kimmell & Kimmell, Esqs., 150 Broad Hollow Road, Melville, New York, appearing on behalf of the Employer. |
| MILTON N. KONOWE, ESQ. | Charles Katz, Esq., 360 Lexington Avenue, New York, appearing on behalf of Respondent Local 522 IBT. |
| ALLEN S. MATHERS, ESQ. | Israelson & Streit, Esqs., 521 Fifth Avenue, New York, New York, appearing on behalf of Local 135 SEIU AFL-CIO. |

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# PROCEEDINGS

JUDGE DYER: The hearing will come to order.

This is a formal hearing before the National Labor Relations Board in the matter of Scientific Pest Control Corporation and Exterminators, Fumigators & Termite Workers, Local 155 Service Employees International Union, AFL-CIO and Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, party to the contract, cases numbered 29-CA-4236 and 29-CB-2058.

The Administrative Law Judge conducting this hearing is John M. Dyer.

All parties have been informed of the procedures at formal hearing before the Board by service of a statement of standard procedures, with Notice of Hearing.

Additional copies of this statement are available from General Counsel.

Will counsel please state their appearances for the record.

MR. MATHERS: Israelson & Streit appearing for Local 155, SEIU-AFL-CIO, 521 Fifth Avenue, New York City, New York.

MR. EISENBERG: Jack Eisenberg, counsel for the General Counsel, National Labor Relations Board Region 29.

MR. KIMMELL: Kimmell & Kimmell, attorney for the Respondent Company by Leonard S. Kimmell.

**MR. KONOWE:** For the Respondent Local 522 IBT, Charles R. Katz by Milton M. Konowe.

**JUDGE DYER:** Are there any other appearances?

The record will show no response.

Gentlemen, before we started I asked if there was any chance of settlement, if at anytime during the proceeding you find some avenues open up, let me know.

I will afford you the opportunity to discuss settlement.

Before we start, two words, one about leading questions.

I don't mind leading questions in the area of background.

You make your objection anytime you want.

A leading question comes out and something material from the friendly witness, I will not say take it back, even whether there is an objection, I will not say start over again.

Any damage done is done when it comes out by asking a leading question and you are damaging to some degree the credibility of that witness, so be guided by that.

In the area of going beyond the scope of direct I will allow some going beyond that, if you get way to far afield I will cut you back.

May we have the formal papers?

MR. EISENBERG: I offer the formal papers, General Counsel's 1 consisting of documents 1A through 1T, T being the index and description of General Counsel's Exhibit.

MR. KIMMELL: No objection.

MR. KONOWE: No objection.

MR. MATHERS: No objection.

JUDGE DYER: The document is received.

(Whereupon, General Counsel's Exhibit 1A through 1T heretofore marked for identification, received into evidence.)

MR. EISENBERG: May we go off the record?

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: Back on the record.

MR. EISENBERG: We have several stipulations that I understand will be agreed upon, the first one being eight authorization cards signed by employees for Local 155 SEIU.

JUDGE DYER: You want to offer those as General Counsel's 2A to whatever it is?

MR. EISENBERG: Right.

It will be A through H.

JUDGE DYER: May we have those marked so all parties will understand which is which.

MR. KONOWE: They are eight introduced?

MR. EISENBERG: At this point.

MR. KONOWE: I only have a list of seven.

JUDGE DYER: Start marking them as General Counsel's 2A through et cetera and call out the name of each one so all the parties will know which is which.

Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

It is my understanding that the parties stipulate to the Exhibit 2A through H, is that correct?

MR. KIMMELL: The Company so stipulates.

MR. KONOWE: Correct.

MR. MATHERS: Correct.

JUDGE DYER: General Counsel's Exhibits 2A through H are received.

(Whereupon, General Counsel's
Exhibits 2A through 2H were
marked and received into evidence.)

MR. EISENBERG: It is my understanding that the parties are willing to stipulate to General Counsel's 3, which is offerred in evidence consisting of a payroll showing employees on payroll as of September 10, 1975.

It is my understanding that the parties are willing to stipulate in that regard that employees Mark Giordano and Joseph Giordano, Salvatore Giordano, James Guenther, Ellen Foley, Yuonne Boas, Joy Gurini, are not employees eligible to be in the unit.

MR. KIMMELL: That is not entirely correct.

The company is will to stipulate that Exhibit 3, General Counsel's 3 does list the people on the payroll as of September 10th.

JUDGE DYER: I understand you also stipulate this is a payroll ending September 9th.

MR.KIMMELL: Yes.

We further stipulate that Sal Giordano, Mary Giordano should be excluded from this list as officers of the company.

That James Guenther should be excluded as a supervisory employee.

That Ellen Foley, Yuonne Boas and Joy Gurini should be excluded as clerical employees and further stipulate that Mark Giordano and Joseph Giordano, who are the sons of Salvatore Giordano, the president of the company, are and who are employed as rank and file employees would not be eligible under the present rule of the Labor Board to participate in a Board ordered election.

We however think they should and are properly included in the bargaining unit.

We suggest their names should be counted for the purposes of a majority.

JUDGE DYER: You stipulate to the fact your position is the company's position is that correct?

MR. KONOWE: That is correct.

JUDGE DYER: So stipulated gentlemen?

MR. KIMMELL: So stipulated.

MR. KONOWE: So stipulated.

MR. MATHERS: So stipulated.

JUDGE DYER: The stipulation is received and General Counsel's Exhibit 3 is received.

(Whereupon, General Counsel's Exhibit 3 was received and marked into evidence.)

MR. EISENBERG: It is also my understanding that the parties are willing to stipulate and General Counsel enters in evidence General Counsel's Exhibit 4 a recognition agreement dated September 12, 1974, between Local 522 and Scientific Pest Control.

JUDGE DYER: Does the Company so stipulate?

MR. KIMMELL: The company so stipulates.

MR. MATHERS: So stipulated.

MR. KONOWE: So stipulated.

JUDGE DYER: General Counsel's Exhibit 4 is received in evidence.

(Whereupon, General Counsel's Exhibit 4 was received and marked into evidence.)

MR. EISENBERG: General Counsel offers as Exhibit 5 an agreement made the 16th day of September, 1974 between Scientific Pest Control and Local 522.

MR. KIMMELL: So stipulated.

MR. KONOWE: So stipulated.

MR. MATHERS: Agreed.

JUDGE DYER: General Counsel's 5 is received.

(Whereupon, General Counsel's Exhibit 5 was received and marked into evidence.)

MR. EISENBERG: General Counsel's 6, is Exhibit 6, General Counsel offers a memorandum made between Scientific Pest Control and Local 522.

JUDGE DYER: I take it you gentlemen so stipulate?

MR. KONOWE: So stipulated.

MR. KIMMELL: So stipulated.

MR. MATHERS: So stipulated.

JUDGE DYER: It is received in evidence.

(Whereupon, General Counsel's Exhibit 6 was received and marked into evidence.)

MR. EISENBERG: General Counsel offers as Exhibit 7 a letter dated October 18, 1974 addressed to Scientific Pest Control signed by Arthur Schneider, Secretary-Treasurer of Local 522 requesting the discharge of the named employees.

MR. KIMMELL: So stipulated.

MR. MATHERS: So stipulated.

MR. KONOWE: So stipulated.

JUDGE DYER: General Counsel's 7 is received into evidence.

(Whereupon, General Counsel's Exhibit 7 was marked and received into evidence.)

MR. EISENBERG: General Counsel offers in evidence as Exhibit 8, the bookkeeping records of the company reflecting the earnings and other information of employee William Raupp, for the period January 1, 1974 to December 10, 1974.

MR. KIMMELL: So stipulated.

MR. MATHERS: So stipulated.

MR. KONOWE: So stipulated.

JUDGE DYER: General Counsel's Exhibit 8 is received into evidence.

(Whereupon, General Counsel's Exhibit 8 was marked and received into evidence.)

MR. EISENBERG: General Counsel offers as Exhibit 9 a letter dated October 23, 1974 addressed to Mr.William Raupp from Mr. Salvatore Giordano requesting he report back to work on Tuesday, October 29th at 88 South Baylies Avenue.

MR. KIMMELL: So stipulated.

MR. KONOWE: So stipulated.

MR. MATHERS: So stipulated.

JUDGE DYER: It is received.

(Whereupon, General Counsel's Exhibit 9 was marked and received into evidence.)

MR. EISENBERG: General Counsel offers in evidence as General Counsel's Exhibit 10 a letter dated October 23rd, 1974, addressed to Mr. Dennis Balz, from Mr. Giordano, Salvatore Giordano asking him to report back to work on Monday, October 28, 1974 at the 88 South Baylies Location.

JUDGE DYER: Gentlemen?

MR. KIMMELL: So stipulated.

MR. KONOWE: So stipulated.

MR. MATHERS: So stipulated.

JUDGE DYER: It is received.

(Whereupon, General Counsel's Exhibit 10 was marked and received into evidence.)

JUDGE DYER: Does that complete your offerring at this time?

MR. EISENBERG: That completes my offerring.

JUDGE DYER: Are there other Exhibits to be offerred? Mr. Konowe?

MR. KONOWE: I have nothing.

JUDGE DYER: Before going on the record I did ask some questions about the answer.

I understand from that conversation that the Respondent Union and Respondent Company are willing to admit Paragraphs 18 and 19 in the Complaint, being Paragraph 18 down to the third line from the bottom which states down to that point that the parties, Respondent parties do admit Paragraphs 18 and 19.

Is that correct?

MR. KIMMELL: That is correct.

JUDGE DYER: Mr. Konowe?

MR. KONOWE: That is correct.

JUDGE DYER: I also understand that the Respondent Union will admit Paragraphs 20, 22, 23, 24 and 27 and the Respondent Company does admit the same paragraphs, is that right Mr. Konowe?

MR. KONOWE: That is correct.

JUDGE DYER: In regard to Paragraph 26 of the Complaint it is my understanding that the Respondent Union would admit Paragraph 26 but will deny Paragraph 26B?

MR. KONOWE: That is correct.

JUDGE DYER: One further question about Paragraphs 10 and 11 Mr. Kimmell --

MR. KIMMELL: Let me just get it.

JUDGE DYER: Top paragraph, Page 4.

MR. KIMMELL: Right.

JUDGE DYER: Is there a question as to the receipt of a request bargained by Local 155?

MR. KIMMELL: There is no question but it was a letter that was sent, I think the question is we could not stipulate as to when it was received.

JUDGE DYER: This is for my personal information, I did not know whether it was the question as to the date the company received it?

MR. KIMMELL: That is it exactly, right.

JUDGE DYER: As to Paragraph 11 it states the Respondent has refused to bargain with the Union, that is Local 155 but it states a specific date.

Is there a specific date on which you did refuse to bargain with them or it is not that date?

MR. KIMMELL: It is not that date.

JUDGE DYER: Anything else to come before me?

MR. MATHERS: Yes, your Honor.

JUDGE DYER: Who is first, Mr. Mathers?

MR. MATHERS: Local 155 would like to withdraw a request of our charges filed on behalf of employee Anthony Nuzzi in regard to, in regard to the allegation in the Complaint, allegations number 22, 23, 24, 30, 31, 32, 33, 36 and 37.

That is solely to Anthony Nuzzi.

JUDGE DYER: In regard to Paragraph 24 you are just withdrawing Nuzzi?

MR. MATHERS: Only Nuzzi, the employees indicated to ourselves and to the Board he has no further interest in the proceeding.

He does not wish to participate in anyway.

MR. EISENBERG: General Counsel hasn't any objection.

JUDGE DYER: Is Mr. Nuzzi here?

MR. MATHERS: No.

JUDGE DYER: Does anybody else represent him ?

(Whereupon, there was no response.)

JUDGE DYER: The charge was filed by the Union?

MR. MATHERS: Right.

JUDGE DYER: All right, on the statement of counsel and the position taken by the General Counsel and there being no objection thereto, I take it from any of the other parties we will permit the withdrawal of Anthony Nuzzi's name from the Complaint.

I take it you are moving to strike his name from the Complaint and his name will be stricken from the Complaint as it appears, as indicated.

Mr. MATHERS: Thank you.

JUDGE DYER: Anything further?

MR. MATHERS: No.

MR. KIMMELL: I have a preliminary motion.

I notice a number of people sitting in the hearing room who I presume will be witnesses.

Under the circumstances of this case I believe we will be involved in questions of fact and corroboration.

I move these witnesses be excluded from the hearing room, be sequested.

JUDGE DYER: Before I grant the motion, the motion of sequestration means that no one is to have any contact with the witnesses, that includes counsel in regard to matters in this case which the witnesses are sequested and if any of the witnesses report to me that they have been talked to by counsel or any other witnesses in regard to this case, then it becomes a serious question for me.

I don't want to have to get into that question, so if you understand the motion and there is no objection I will grant it.

Any objection?

MR. EISENBERG: I would like a clarification.

Does the motion to sequester with your ruling be with respect to others than the witnesses, I point to the ones sitting back there with respect to representatives of the other side?

JUDGE DYER: I am not talking about 8(a)3's who we know are considered a party, who are allowed.

I will allow one person to stay in for each of the parties.

Other than that, it refers to anybody else.

Mr. KONOWE: May we go off the record?

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

JUDGE DYER: I will grant the motion for sequestration.

Now, that the people who are not what we call 8(a)3's but are witnesses will understand what this is about, sequestration provides that witnesses who are not parties at this point are to leave the room so that when they come back their testimony is their testimony and not what they have heard somebody else say and maybe borrow from.

What you are asked to do, when you testify is to give your best memory of what took place, we are asking the witnesses to leave the room.

General Counsel will find a spot for you and you will be called when it is your turn to testify.

Please advise me if anyone talks to you about your testimony from this room.

All right, we will go off the record while you have the witnesses leave the room.

Off the record.

(Discussion off the record.)

JUDGE DYER: Back on the record.

Mr. Eisenberg?

MR. EISENBERG: General Counsel requests permission to make a short opening statement your Honor.

Local 155 commenced its organization of employees of Scientific Pest Control very early in September commencing around September 3rd or 4th.

Thereafter they maintained a majority of signed authorization cards of employees in an appropriate unit.

On September 9th they demanded recognition and bargaining, which recognition and bargaining was subsequently refused by Respondent employer.

Thereafter, Respondent Employer recognized and executed a contract with Local 522 of the Teamsters containing Union security provision.

Local 522's appearance we will show was after Respondent Employer was aware of the organization of Local 155 and had an outstanding demand for recognition.

In the interval between, during the organization and the appearance of Local 522 and thereafter, Respondent Employer interrogated its employees and directed them to refrain from supporting Local 155, they promised employment benefits, as well as the recognition of Local 522 which we contend is unlawful.

Three employees were discharged.

General Counsel will show that employer while William Raupp was discharged on September 7th because of his Union activities and that Thomas Clifford was discharged on or about October 1st because of his Union activities and Raupp was reinstated a couple of days later.

Dennis Balz and Raupp were discharged on October 28th pursuant to demand by Respondent Union because they would not sign a card or join Local 522.

We contend the contract and Union security provisions are unlawful.

Subsequently we will show Respondent Employer reinstated employees Balz and Raupp but transferred them to another place of business, at Port Washington place of business, which we claim is discriminatory.

We will further show that the Respondent Employer refused various employment benefits with respect to William Raupp, who was the chief union adherent.

We accordingly claim that a bargaining order remedy is warranted because of the severe unfair labor practice of Respondent Employer which would preclude a free and fair election.

JUDGE DYER: Let me ask at one point you mentioned another location.

Is the other location specifically a part of the unit?

MR. EISENBERG: Supposedly.

JUDGE DYER: Is there any question of -- about it, are the two locations the same unit?

MR. KIMMELL: Yes.

JUDGE DYER: Are there any other opening statements?

MR. KIMMELL: We have none.

MR. KONOWE: None.

MR. MATHERS: None.

JUDGE DYER: Thank you.

Do you want to call your first witness?

MR. EISENBERG: Yes.

General Counsel calls at this time Ernest Lombardi.

Whereupon,

ERNEST LOMBARDI

called as a witness, having been first duly sworn in by Judge Dyer, was examined and testified as follows:

JUDGE DYER: Will you please state your name and address for the record.

THE WITNESS: Ernest Lombardi, 2463 East Willow Street, East Meadow.

DIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Lombardi, are you connected with Local 155 SEIU?

A Yes.

Q In what capacity?

A Organizer and Secretary-Treasurer at the present time.

Q Did you have any contract with employees of Scientific Pest Control?

A Yes.

Q In what regard?

A To organize in Scientific Pest Control.

Q Was there more than one delegate of Local 155 involved in this?

A Myself and Pat Carroll, President.

Q Who was the delegate that first contacted the employees?

A I did.

Q When did it begin?

A September 4, 1974.

Q How did it begin?

A I was sitting in my car, about 500 feet away from Scientific Pest Control.

I observed two men in a truck leaving the place of business and I followed them.

I hailed them and we went into a parking field where we met and I introduced myself and told them exactly who I was and what I was doing around the area.

They also gave me their names and identified themselves, that they worked for Scientific Pest Control.

I in turn gave them, I in turn asked them if they wanted, if there was a union.

They told me no.

Their names are Michael Castalino and Anthony Nuzzi.

I asked them if they would like to be represented by Local 155, they said yes.

With that I gave them authorization cards which they signed and gave back to me.

I explained exactly what the cards meant, that it authorized me to represent them in bargaining.

Q Okay, Mr. Lombardi, did you solicit authorization cards of any other employees?

A Yes.

MR. EISENBERG: I offer General Counsel's 11 for identification.

(Whereupon, document referred to was marked General Counsel's 11 for identification.)

Q Mr. Lombardi, I show you General Counsel's Exhibit 11 for identification can you identify that card?

(Handing to the witness.)

A Yes.

Q What is it?

A That is Patrick Tierney, he worked for Scientific Pest Control.

Q What is the document?

A An authorization card, representation card.

Q Did you ever at that time get that card?

A Pardon?

Q Did you ever get possession of that card as it exists now?

A After he signed it, he gave it to me.

Q Where were you when you got that card?

A I was at the restaurant, they call it the Village on

Jericho Turnpike, on a Sunday with the employees of Scientific Pest Control.

Q Do you know who gave that card to Mr.Tierney,if anyone?

A I did.

Q What did you say to him when you gave him the card?

A I gave them a speel, I gave them a talking to when I was in the restaurant, who I was and what the card would mean when they signed it.

If I am not mistaken there were eight or nine people present at the time I got this card signed.

Q Did you observe Mr.Tierney sign that card?

A Yes, sir.

Q Is the date on that card the date you saw him sign it?

A Yes, sir.

MR. EISENBERG: I offer it in evidence as General Counsel's 11.

JUDGE DYER: Any objection?

MR. KIMMELL: May I see it please.

MR. EISENBERG: (Handing.)

MR. KIMMELL: No objection.

JUDGE DYER: Mr. Konowe?

MR. KONOWE: Is this September 8th?

JUDGE DYER: Mr. Konowe?

MR. KONOWE: No objection.

JUDGE DYER: General Counsel's Exhibit 11 is received into evidence.

(Whereupon, General Counsel's Exhibit 11 heretofore marked for identification, received into evidence.)

Q You testified with respect to a meeting.

Do you know how that meeting came about?

A Yes.

Q How did it come about?

A I got a call from Billy Raupp stating he was fired or terminated for the reason of participating in the Union activity.

Therefore, we set up a meeting for Sunday.

I told him to get everyone together that I would be down there, so he did and that is how it came about for the meeting.

Q Who was present at that meeting?

A There was Billy Raupp, Tommy Clifford, Michael Castalino, Tony Nuzzi.

There was DeMeo, Mark Minter, Dennis Balz.

There was also a secretary there that work for Mr. Giordano.

Also Mr. DeMeo, I don't know if I said that, Mr. DeMeo was there as far as I can remember.

Q Did you talk at the meeting?

A By the way Pat Tierney was there.

Q Did you talk at the meeting?

A Yes, I did.

Q What did you say to the employees?

A Again I told them who I was and that I would go and speak to Mr. Giordano on the following day and not to get excited because I said Mr. Giordano was a very amicable person, he will sit down and talk to me and this is what I did.

Q After this --

By the way, do you know the date of that meeting?

A It was on a Sunday, September 8th.

Q At anytime after this meeting, did you speak with Mr. Salvatore Giordano?

A Yes, on the following day, on a Monday I went to his office.

Q Where did you speak to Mr. Giordano?

A I met him first on the outside.

Q When you met him on the outside, what did you say to him?

A I told him who I was and I was there for the reason why did he fire Billy Raupp and with that he told me, he invited me into his place of business and we so did proceed downstairs into his basement office.

Q When you were in his basement office, who was present?

A     Just Mr. Giordano.

Q     Can you tell us what you said to Mr. Giordano and what Mr. Giordano said to you at that time?

A     Well, I told Mr. Giordano I had the majority of his employees, exterminators, fumigators that would like me to represent them and I had a majority of his employees signed and Mr. Giordano said I don't believe you and I would like to see the cards.

I told him if we get a third party in I would glady show him the cards, perferably an uninterested person, a clergyman or priest and with that we let it go.

He told me if the union comes in it is going to be pretty hard for me, I will have to close up the place and I will have to get rid of the dead wood.

I told Mr. Giordano, I said Sal, I said come on now we can get together on all these issues.

I said let's do the right thing for ourselves and the men and we naturally talked about the exterminating business because I was affiliated, I was affiliated 24 years I worked with some company, that is for 25 years.

Mr. Giordano and I did meet at several times throughout the years in the exterminating business and with that Mr. Giordano said well, we can sit down and talk, tell Mr. Carroll, the president, to call me and we will set up a tentative date as to sit down and see what we can come to and with that

I agreed to that and I shook hands.

We were very amicable, there was no anomosit towards anyone of us.

With that I left and asked him how about Billy Raupp.

He said he goes back to work.

He told Billy he would go back to work at that time and all the men wanted to --

MR. EISENBERG: That is all.

MR. KIMMELL: Let him finish.

A They wanted a strike and I said that is no way to do anything.

I said we will sit down and bargain with Mr. Giordano and Mr. Giordano told me he was going to sit down and talk with the Union delegate.

JUDGE DYER: Let me ask this and this goes for all witnesses, please just answer the question that is asked rather than other questions.

All right, go ahead.

MR. EISENBERG: Thank you.

Q At this conversation you had with Mr. Giordano, did he say anything about another labor organization?

A No.

Q Did he say anything about Local 522?

A No.

Q Did he say anything about the Teamsters?

A No, sir.

MR. EISENBERG: Nothing further.

JUDGE DYER: Do you have any questions to ask Mr. Mathers?

MR. MATHERS: No questions.

JUDGE DYER: Mr. Kimmell?

MR. KIMMELL: May we have any affidavits this man may have given to the Labor Board.

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: Back on the record.

We will recess until a quarter to two.

(Whereupon, a luncheon recess was taken until a quarter to two.)

AFTERNOON SESSION

JUDGE DYER: On the record.

MR. KIMMELL: Judge, it has come to my attention with respect to General Counsel's Exhibit 3, during lunch period I was advised by the Employer that although the name of Patrick Tierney appears on this payroll list, that the payroll list is for the week ending September 10th, but this point of fact, Tierney resigned his employment effective September 6, 1974.

He did work, he finished working, he did work that day on September 6th, which is a Friday, although his name appears on the payroll list, he was not employed past September 6th.

Now, I suppose I am wondering whether General Counsel would stipulate to this fact, that that fact did occur?

MR. EISENBERG: No, we cannot stipulate.

MR. KIMMELL: Then, we will of course have to prove it by evidence.

JUDGE DYER: That is your position?

MR. KIMMELL: Yes, we will seek evidence on that.

CROSS EXAMINATION

Q (By Mr. Kimmell) Mr. Lombardi, I take it you knew Mr. Giordano for quite a number of years?

A Yes.

Q Was it a close personal friendship or you knew him in the industry?

A In the interim.

Q I take it your purpose in visiting him on September 9th was to remedy the situation which you thought had developed with respect to Raupp, you were interested in getting Raupp put back to work?

A That was one of the reasons, sir.

Q Was that the main reason you went to visit him on the 9th?

A I had two reason.

Q What was the other reason?

A That I had a majority of employees.

Q With respect toRaupp, do you remember Mr. Giordano saying he has not been fired, but in any event he can come back to work on Monday?

A Yes, Mr. Giordano said that after we spoke down in the basement he told Mr. Raupp to go back to work because they were all outside.

Q Do you remember him saying I have not fired Raupp, Raupp can come back to work like everybody else?

A Yes.

Q Now, when you said to him that you represented a majority, he asked you for the cards, I take it?

A That is right, sir.

Q You refused to show it to him?

A Yes, sir.

Q Do you remember him saying I want a vote at the National Labor Relations Board?

A Yes.

Q What did you say to that?

A I told him certainly, whenever you're ready and it is at your convenience I will get in touch with Mr. Carroll and discuss what we have to do.

Q You do remember him saying I want a vote at the National Labor Relations Board?

A Yes.

MR. KIMMELL: That is all I have.

JUDGE DYER: Mr. Konowe?

MR. KONOWE: I have no questions.

JUDGE DYER: Any redirect?

MR. EISENBERG: No.

EXAMINATION

Q (By Judge Dyer)You just said they were all outside, who was outside?

A There was Billy Raupp outside, there was Dennis who was outside, Clifford was outside, they were not going back to work sir until Billy Raupp was reinstated.

Q How many people was that?

A As far as I can, to the best of my recollection, I remember there were four or five of them outside, offhand I cannot remember exactly.

Q What time of the morning was this?

A About 8:00 o'clock in the morning.

Q What time did the company start work?

A 8:00 o'clock.

Q You were talking toMr. Giordano about 8:00 o'clock in the morning?

A Yes, before they went to work I was on the scene.

I was with Mr. Giordano.

Q Was anything said about people being outside?

A No, sir.

Q Between you and Mr. Giordano?

A No, sir.

Q What time did you finish your conversation with Mr. Giordano?

A We were downstairs over an hour.

Q What time were you finished?

A About 9, a quarter after nine, something like that.

Q Were the people you mentioned outside at the time you finished the conversation?

A Yes, as far as I remember Billy Raupp was outside.

Q Anybody else?

A Dennis.

Q Dennis who?

A Balz and Clifford as far as I can remember.

Q Those were the only ones you know of that were outside?

A Yes, sir.

Q Did you talk with them after you left?

A Yes, I told them Billy was going back to work.

JUDGE DYER: Thank you.

Anything further?

MR. MATHERS: No.

MR. KIMMELL: No.

MR. KONOWE: No.

JUDGE DYER: Thank you, Mr. Lombardi.

(Witness excused.)

JUDGE DYER: Your next witness.

MR. EISENBERG: General Counsel calls Pat Carroll.

Whereupon,

PATRICK CARROLL

called as a witness, having been first duly sworn in by Judge Dyer, was examined and testified as follows:

JUDGE DYER: Will you state your full name and address for the record?

THE WITNESS: My name is Pat Carroll, I live at 72-96 Calamus Avenue, Woodside, New York 11377.

DIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Carroll, are you connected with Local 155?

A Yes.

Q In what capacity?

A I am the president.

MR. EISENBERG: General Counsel offers Exhibit 12, A, B and C for identification.

(Whereupon, document referred to was received and marked General Counsel's Exhibit 12, A,B and C for identification.)

Q Mr. Carroll, I show you General Counsel's Exhibits 12 A for identification, could you identify that document?

(Handing to the witness.)

A Yes.

Q What is that document?

A That is a letter we sent to Mr. Giordano asking for recognition.

Q Did you cause that letter to be prepared?

A I did.

Q Did you cause that letter to be sent?

A Yes.

Q I show you General Counsel's B for identification, would you identify that document?

(Handing to the witness.)

A Yes.

Q Would you tell us what it is?

A It is a receipt for a certified mail for Mr. Sal Giordano care of Scientific Pest Control.

Q I show you General Counsel's Exhibit 12C, can you identify that document?

(Handing to the witness.)

A I can.

Q Please speak up.

A I can.

Q What is that document?

A That is the receipt delivered by the Postman for this particular letter.

Q Do you know how that letter got sent?

A I do.

Q How did it get sent?

A Well, the afternoon, whenever they called me from the area where we were, where Scientific was, told me to send a letter out.

It was the Union practice to send it so we sent it.

MR. EISENBERG: I offer General Counsel's Exhibits 12A, B and C in evidence.

MR. KIMMELL: May I have Voir Dire on the Exhibit?

JUDGE DYER: Yes.

VOIR DIRE EXAMINATION

Q (By Mr. Kimmell) Mr. Carroll, the original of the letter of course was sent to the company, is that correct?

A Yes.

Q May I show you this document, is that the original that was sent to the company?

(Handing to the witness.)

A I think so, yes.

Q Now, attached to that original is an envelope, is that the envelope used by the Union to send out letters?

A Yes.

Q Now, after you were called by Mr. Lombardi, did you dictate this letter to the office secretary?

A Yes.

Q Did she type it up?

A Yes.

Q After she typed it, did she give it to you?

A Yes.

Q Did you sign it?

A Yes.

Q Did you give the letter back to her?

A No.

Q What did you do?

A I took it to the Post Office.

Q Did you personally take it to the Post Office?

A That is right.

Q Isn't that a little unusual, for the president of a Local to take it to the Post Office?

A We have the main Post Office across the street, if it was unusual I did it because it had to be done.

Q Are you sure you took it and not her?

A I took it, my writing is on the receeipt so I know I did it myself.

JUDGE DYER: There are two receipts, it would be helpful if we knew which one you are talking about.

Q Is your writing on both receipts?

A Right.

Q What Post Office did you mail this out of?

A I mailed it from the 33rd Street and 8th Avenue.

Q What time did you bring it in there?

A In the afternoon of that day.

Q How late?

A Maybe about 1:00 or 2:00 o'clock.

Q One or 2:00 o'clock?

A I am really not to sure about the time, but approximately then, yes.

Q Did you write any other letters to Mr. Giordano?

MR. EISENBERG: Objection, beyond the scope of Voir Dire.

MR. KIMMELL: I think it will come right into it.

JUDGE DYER: All right, on the basis you will connect it up.

Q Did you write any other letters to Mr. Giordano?

A Yes.

Q When did you write that letter?

A I wrote that letter about the 12th.

Q Did you mail it out yourself?

A The same thing.

Q You sent it by registered mail?

A Certified, not registered.

MR. KIMMELL: No further questions on Voir Dire.

JUDGE DYER: Any objection to receipt of General Counsel's Exhibits 12A, B and C?

MR. KIMMELL: No objection.

MR. KONOWE: No objection.

MR. MATHERS: No objection.

JUDGE DYER: General Counsel's Exhibits 12A, B and C are received.

(Whereupon, General Counsel's Exhibits 12A, B and C heretofore marked for identification, received into evidence.)

MR. EISENBERG: General Counsel offers for identification Exhibits 13A, B and C.

(Whereupon, document referred to, received and marked General Counsel's Exhibits 13A, B and C for identification.)

Q Mr. Carroll, I show you General Counsel's Exhibit 13A for identification.

Would you identify that document please?

(Handing to the witness.)

A I will.

Q What is that document?

A That is a document we sent to Mr. Giordano after the phone conversation with him setting a date to sit down and negotiate.

Q Did you cause that document to be prepared?

A I did.

Q How did that document come to be prepared?

A Because Mr.Giordano asked for alternate dates and they are listed in the letter.

Q Is the date on the document the date it was prepared?

A Yes.

Q I show you General Counsel's Exhibit 13B for identification, would you please identify that document?

(Handing to the witness.)

A I can.

Q What is that document, please?

A That is a receipt for this letter sent to Mr. Giordano of Scientific Pest Control.

Q I show you General Counsel's Exhibit 13C for identification, would you identify that document, please?

(Handing to the witness.)

A I can.

Q What is that document?

A That is a receipt sent us by the Postman in regard to this letter.

MR. EISENBERG: I offer it in evidence as General Counsel's 13 A, B and C.

JUDGE DYER: Any objection?

MR. MATHERS: No objection.

MR. KIMMELL: No objection.

MR. KONOWE: No objection.

JUDGE DYER: General Counsel's Exhibits 13A, B and C are received.

(Whereupon, General Counsel's Exhibits 13A, B and C, heretofore marked for identification, received into evidence.)

MR. EISENBERG: General Counsel has nothing further.

CROSS EXAMINATION

Q (By Mr. Mathers) Mr. Carroll, how big is your office staff?

A I have one girl and Mr. Lombardi.

Q How many certified letters do you send out in a, say a week's time?

A Maybe one a month or two a month at the most.

Q What is your standard office procedure for sending out certified letters?

A I make sure I send them out.

MR. MATHERS: No further questions.

JUDGE DYER: Mr. Kimmell?

MR. KIMMELL: Did this man give you an affidavit?

MR. EISENBERG: No, he did not.

MR. KIMMELL: I have no questions.

JUDGE DYER: Mr. Konowe any questions?

MR. KONOWE: No questions.

JUDGE DYER: Thank you Mr. Carroll.

(Witness excused.)

MR. EISENBERG: General Counsel calls Salvatore Giordano.

Whereupon,

SALVATORE GIORDANO

called as a witness, having been first duly sworn in by Judge Dyer, was examined and testified as follows:

JUDGE DYER: State your full name and address for the record.

THE WITNESS: Salvatore Giordano, Astor Avenue, St. James, New York.

DIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Giordano are you connected with Scientific Pest Control?

A I am.

Q In what capacity?

A President of the corporation.

MR. EISENBERG: I request permission to interrogate him under Rule 43B.

JUDGE DYER: I think it is now called 611C, somebody told me under the new rules and regulations.

All right.

Q Isn't it a fact, Mr. Giordano, that you hold the majority financial interest in Scientific Pest Control?

A No, I do not.

Q Who does?

A Equal shares, my wife and myself.

Q Each of you own 50 percent?

A Yes.

Q Is it a closed corporation?

A Yes, it is.

Q Mr. Giordano, do your sons live with you at the present time?

A Yes, they do.

MR. EISENBERG: Nothing further.

MR. MATHERS: No questions.

MR. KIMMELL: If I may.

## CROSS EXAMINATION

Q (By Mr. Kimmell) Tell us what are your sons' names?

A Joseph and Mark Giordano.

Q Do they work for you?

A They work for me every Saturday throughout the year and on occasion after school, school holidays and so forth, they wash the trucks, clean the trucks, clean the office, staple papers together for me, just general to give them something to do, they have been working for, for the last four years.

Q How are they paid?

A Hourly.

Q What is their rate of pay?

A $2.50 an hour.

Q How old are the boys?

A 17 and 15.

JUDGE DYER: Any other questions?

MR. KONOWE: No.

EXAMINATION

Q (By Judge Dyer) You say they work Saturdays and after school?

A Saturdays, after school, 3:30, 4:00 o'clock, if we fall behind and they wash the trucks, clean the trucks, if we need some people, they will do it, empty the garbage, sweep the floors, clean the bathroom, anything I have for them.

JUDGE DYER: All right, that is all.

(Witness excused.)

MR. EISENBERG: General Counsel calls Dennis Balz.

Whereupon,

DENNIS BALZ

called as a witness, having been first duly sworn in by

Judge Dyer, was examined and testified as follows:

JUDGE DYER: State your full name and address for the record.

THE WITNESS: Dennis Balz, 132 48th Street, Lindenhurst, New York.

DIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Balz, were you ever employed by Scientific Pest Control?

A Yes, I was.

Q When were you hired?

A April, 1974.

Q Did there come a time when you were discharged?

A Yes, there was.

Q When was that?

A The first time October 18th.

The second time December, the first week in December sometime.

Q What year?

A 1974.

Q What was your job, and in what capacity were you employed?

A I was a serviceman.

Q What did you do?

A I serviced monthly houses and commercial accounts such as restaurants, diners, book manufacturers, just monthl jobs.

Q What was the actual work you did?

A I go to a house monthly and just spray the baseboard and during the hot summer months spray the outside of the foundation.

Q How many days a week did you work during the course of your employment?

A Five full days and every other Saturday half a day.

Q How did you get your work assignments?

A Excuse me?

Q How did you get your work assignments?

A I used to go to the St. James office and pick up work for like two or three days, then I would go out and bring out enough chemicals and do the work, then come back and pick up my route.

Q What do you mean by pick up your route?

A My route cards for the same area so I would not have to report back.

This was at the beginning.

Q What office did you work out of?

A I worked at, out of the St. James office, then after I was discharged, fired the first time then he had me reporting to Port Washington.

Q What was your salary when you were first hired?

A $110 per week.

Q What was it when you last worked?

A $130.

Q Did you ever hear of Local 155?

A Yes, I have.

Q When was the first time you heard of it?

A The first week in September.

Q How did you hear of it?

A Bill Raupp advised me of it and asked me if I wanted to join.

Q Where were you when he talked to you?

A He asked me inside the office.

Q Did he tell you anything, what did he say to you when he first approached you about this?

A He asked me if I wanted to join a union and I told hi I would think about it.

I did not want to jump at the decision.

Q Did you ever sign an authorization card for Local 155?

A Yes, I did.

Q Who gave you the card?

A Bill Raupp.

Q Do you remember where you were when he gave you the card?

A No, I don't.

Q Do you remember what he said to you, if anything?

A He told me some of the benefits and, you know, I liked it so I signed the card.

Q I show you General Counsel's 2B in evidence, is the date which appears on that card the date you signed it?

A Yes, it is.

MR. KIMMELL: We have already stipulated to it.

JUDGE DYER: Yes, I know.

Q Did you ever meet a Local 155 delegate?

A Yes, I did.

Q When?

A Sunday morning, September 8th or 9th, I am not positive of the date at the Village Diner in Smithtown.

Q How did you happen to be at the Village Diner?

A Bill Raupp called me up and told me there was a meeting at the Village Diner and we were to meet a delegate.

Q Do you know who was present when you were there?

A Mike Castalino, Nuzzi, there was Tom Clifford, there was Bill Raupp, there was Pat Tierney, that is all I can remember right now.

Q Can you tell us what occurred at that meeting?

A Yes, Ernie Lombardi handed us out pamphlets of Local 155 with all benefits and all the stuff that went with the local and then we went inside and had our lunch and Ernie Lombardi discussed more of the benefits and more closely he talked with us and then he told us about labor laws which

Bill, he was going to come Monday morning and make sure Bill was not fired.

Q Did you report to work on the next day?

A Yes, I did.

Q Did Mr. Giordano talk to you in anyway on that day?

A Yes.

Q Where were you when Mr. Giordano talked to you?

A He talked to us in the office.

Q You said us, was there someone else present when he talked to you?

A Yes.

Q Who was present?

A Mike Castalino and someone else, I can't recall and he just asked --

Q What did Mr. Giordano say to you and what did you say to him, if anything?

A He asked all three of us if we were with this Union, we said yes, we were and he said okay.

Q How did you happen to be in the office at that time?

A We were getting our work.

Q What part of the office was this?

A Well, the middle section of the office, first he had the secretary then the work where you get your work and the lavatory room.

Q Did you ever hear of Local 522 of the Teamsters?

A As of when?

Q Did there ever come a time when you heard of Local 522 during the course of your employment?

A Yes.

Q When was the first time you heard of Local 522?

A Approximately a week after I signed a card for Local 155.

Q Where were you when you heard of Local 522?

A Well, Mr. Sal Giordano --

Q Where were you?

A Down Sal's basement.

Q How did you come to be there?

A Sal Giordano made an appointment with all the fellows, all the workers to have a meeting down in his office, this was down in the basement of the office.

Q When did Mr.Giordano talk to you about the meeting?

A Everybody was down there and he mentioned Local 522.

Q When did he inform you there was going to be a meeting?

A A couple of days before the meeting.

Q Do you remember what he said to you?

A He just said we are going to have a meeting Friday or whatever date it was that we had the meeting, that everybody had to be there.

Q Who was present at this meeting?

A All the workers of Scientific Pest Control.

Q Was anybody else present?

A Yes.

Q Who?

A Sal Abalino -- Castalino.

Q Are you pointing to somebody in the room?

A Yes, the gentleman there in the corner with the tinted glasses.

MR. EISENBERG: Let the record show he was talking to, pointing to the end of counsel's table, would the gentleman identify himself.

MR. CASTALINO: Sal Castalino.

Q Was that person that you identified as Abalino, was that the same person?

A Yes.

Q Did Mr. Giordano speak at this meeting?

A Yes, he did.

Q Did Mr. Castalino speak at this meeting?

A Yes, he did.

Q Can you tell us what Mr.Giordano and Mr. Castalino said at this meeting?

A Mr. Giordano stated that he had signed a contract with Local 522 and he introduced Sal Castalino as a Union delegate of Local 522.

Q Did Mr.Castalino talk?

A Yes, he did.

Q What did Mr. Castalino say?

A He told us some of the benefits of the, of his Union and then he asked if everyone was willing to join, everyone was willing to sign a card and really nobody spoke until, then Sal asked --

Q Sal who?

A Giordano then asked Tom Clifford, Bill Raupp and myself, Sal DeMeo if we were willing to sign and Mike Castantino if we were willing to sign.

Q Did you reply?

A We told him no we were not, we already signed for Local 155.

Q Can you recall either Mr. Giordano or Castalino, whether they said anything else at this meeting?

A Yes, Sal Castalino stated that we had 30 days to sign with Local 522 or under the rule of the Union hope to lose our job without signing with the union.

Q Did either Mr. Castalino or Mr. Giordano explain why that was?

A I don't recall at this time.

Q Was anything mentioned about a contract?

A Yes, Sal --

Q Who said something about the contract?

A Sal Giordano.

Q What was said?

A He said he had signed a contract for Local 522.

Q Did you ever hear of Local 522 before this meeting?

A No, I have not.

Q Mr. Balz, you testified you were discharged on October 13th, 1974, is that correct?

A Yes, I did.

Q Can you tell us what happened that day with respect to your discharge?

MR. KIMMELL: Objection, the Complaint alleges that the man was discharged and both parties admit he was dismissed, you have in evidence by way of stipulation a letter from the union requesting his dismissal and he was dismissed pursuant to this letter.

I think all this is already before you.

JUDGE DYER: I am not sure that you are talking about Paragraph 26, but the union admitted 26A.

I don't think the union denied 26B, is -- if that is what this comes to, I think we should take evidence.

MR. KIMMELL: The man was dismissed because he refused to join the union, because of the Union security clause.

JUDGE DYER: No, it says he was dismissed because he had joined and assisted Local 155 and for other purposes so it is a little bit different.

MR. KIMMELL: Again, just to try and save time I believe the real reason counsel will stipulate on this was because he did not sign, that is what he means, I think by that particular clause he refused to join the union pursuant to the union security clause.

MR. EISENBERG: Let me take a look at the Paragraph for one second.

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: Back on the record.

The parties in an off the record discussion agreed that in essence what the crux of General Counsel seeks here is that he seeks to show the discharge was a violation because the party here on the stand did not join Local 522 and was discharged pursuant to the Union security contract.

General Counsel says that that contract is 8(a)2, 8(b)2 and is a violation, is that correct?

MR. EISENBERG: That is essentially correct.

MR. KIMMELL: I think the company and 522 admits he was discharged for non-performance of that clause of the Union security contract, we of course believe the contract was valid and the discharge was not in violation.

JUDGE DYER: Aren't you going after this one on that basis?

MR. EISENBERG: As far as the actual testimony yes, but as far as the allegation I don't want your Honor to [illegible] any inference concerning employer knowledge of union activities.

JUDGE DYER: On behalf of 155?

MR. EISENBERG: Yes.

JUDGE DYER: Your violation is because of the union security clause?

MR. EISENBERG: Essentially, yes.

Q At anytime prior to your discharge Mr. Balz, I am referring to the discharge of October 18, did any agent or superior of the company speak to you at anytime concerning any kind of a change in your benefits, employment benefits?

A No, well only one thing really changed.

Q Did anyone talk to you about any kind of a change in your employment benefits?

A No.

Q Something changed?

A Yes.

Q How did you find out that something changed?

A Well, like I said before, when I first started, I would take my work for a couple of days and this way I would not have to report back to the office, but after we had union activity, Sal Giordano then told me I had to be in the office at 5:00 o'clock everyday and I had to only take one day's work which like all the other would take a couple of days of work.

Q Do you remember when Mr. Giordano told you this?

A Somewhere around September 10th, around then.

Q After you were discharged on October 18th, did there come a time you were reinstated?

A Yes, there was.

Q When was that?

A Approximately October 26th, one week after, after I was discharged.

Q What office did you work out of?

A Well, if you can call it an office, Port Washington.

Q Do you know the address?

A 88 Baylies Avenue, Port Washington.

Q Howlong did you work from that office?

A Five weeks, approximately.

Q How far away from the Smithtown office is Port Washington's office?

A Approximately 30 miles.

Q Did you ever work out of the Port Washington office at anytime before this?

A No, I did not.

Q Did you ever know anyone else to work out of the Port Washington office before this?

A No, I did not.

MR. EISENBERG: Nothing further.

MR. MATHERS: No questions.

MR. KIMMEll; Can we have his statement.

JUDGE DYER: We will take a five to ten minutes break.

(Whereupon, a recess was had.)

JUDGE DYER: On the record.

Mr. Kimmell?

MR. KIMMELL: Yes, I have questions.

CROSS EXAMINATION

Q (By Mr. Kimmell) Mr. Balz, you talked about this meeting at Village restaurant in Smithtown on September 8th?

A Yes.

Q I believe you said an office girl was there?

A A secretary, yes, I did.

Q What was her name?

A Yuonne.

Q Was she the only one of the girls there?

A Other than Bill's girlfriend.

Q She does not work there?

A No.

Q Did she sign a card for the Union?

A Not that I -- I don't really think so.

Q Had she been invited there by you?

A I don't know who invited her.

Q Was she asked to leave by Mr. Lombardi?

A No.

Q Did he say anything about her being included in the Union?

A No.

Q Now, this meeting with Mr. Giordano, where he introduced Mr. Castalino, when did you say that was?

A Excuse me?

Q When?

A Approximately a week after September 8th, after we signed, approximately the 15th.

Q About the 15th?

A Yes.

Q Just a couple of days before you were let go?

A No, I was not let go until October.

Q So it was about a month and a couple of days before you left there?

A Yes.

Q Now, you say on Monday September 9th, did you report to work at the usual time?

A Yes.

Q When was that, 8:00 o'clock?

A Yes.

Q Did you go to work?

A Not right away.

Q What did you do?

A We waited outside to see if Bill was reinstated.

Q You had heard that Bill Raupp had been fired?

A Yes.

Q While you were waiting outside, did you see Mr. Lombardi?

A We seen him waiting outside.

Q Did he finally go in and talk to Mr. Giordano?

A Yes.

Q How long was he inside with Mr. Giordano?

A I don't know.

Q Five minutes, an hour, how long?

A I don't know, we went back to work approximately 8:30, Sal came out and we were standing there near the garage and Sal came out and told us to get back to work.

Q So you all went back to work at 8:30?

A Approximately, yes 8:30.

Q After you went in, did you pick up your equipment?

A Our work cards, yes.

Q To tell you where to go and so forth?

A Yes.

Q Did you then leave?

A Yes, we did.

Q Now, did anything happen between the time you went in and the time you left?

A Sal approached us.

Q Who did he approach?

A Myself, Mike.

Q Who is Mike Castantio and someone else, I don't recall.

Q Just the three of you?

A Yes.

Q What did he say to you?

A He asked us if we were all for the union?

Q What did you say?

A Yes, we were.

Q What did Raupp say?

A Who?

Q Raupp?

A He was not there.

Q What did Castatino say?

A He said yes.

Q All three of you said yes?

A Yes.

Q Did you, did Giordano say anything else?

A He said okay.

Q Just okay?

A Yes.

Q Then you went back to work?

A Yes.

Q Were you docked for that half hour you missed?

A No, we were not.

Q You were paid for the time?

A Yes.

Q Now, tell me about your job, what did you actually do?
Tell us what a normal day was like?

A I start out most of the times if I had commercial work, they were mostly done in the morning, like they had diners, bowling alleys.
They were done 8:00 o'clock, approximately you would do two hours work, a couple of hours then you would call up the office, then you do more work and have lunch and a couple of more houses until 5:00 o'clock.

Q Now, did you report to the office everyday in order to pick up where you are going to have to be that day?

A At the beginning I did not, at the beginning, it depended if I had work in the Town of Babylon.
Usually I had enough work for three days straight, I would take enough for those three days of chemicals and I would report back to work.
If I started Monday, three days work I report again Thursday morning, then I would most likely be in Stony Brook or whatever, so then I would report to work.

Q The next day?

A Yes.

Q Now, suppose, how about, did you come in at the end of the day's work?

A If I was in Stony Brook?

Q Yes.

A Yes, I did.

Q Now, suppose you were not working in the Town of Babylon, would you come in each morning to pick up your stops?

A Yes, if I was around the St. James office I would.

Q You would come in every morning?

A If I was in that area I was mostly in the Town of Babylon.

Q If you were any other place in Suffolk County, you would come in in the morning?

A Yes.

Q And come back at the end of the night?

A Yes.

Q You lived in Babylon?

A Yes.

Q Where do you live?

A Lindenhurst.

Q Is that on the south shore?

A Yes.

Q About how many miles is it to Lindenhurst?

A Approximately 20.

Q A little more than that?

A I usually took Southern State to Northern State, usually about 20.

Q Isn't it about 20 minutes to Smithtown.
Isn't St. James a few more miles up?

A 22, you know, approximately.

Q How long did it take you to drive from where you lived in Lindenhurst to St. James?

A Half an hour.

Q About a half hour?

A Yes.

Q At night, was it about the same?

A Yes, maybe a little longer because you hit the lights.

Q Did you have more traffic?

A You hit the lights near Hauppauge, maybe longer.

Q It may take about 40 minutes at night?

A Yes.

Q Now, how would you travel from Lindenhurst, your home, to Port Washington?

A I'd take 109 to Oyster Bay, Oyster Bay to the Expressway.

Q Oyster Bay is an expressway?

A Yes, 135.

Q A six lane interstate expressway?

A Not six lane, six lane --

Q Three in each direction?

A Yes.

Q Right?

A Yes.

Q You take Oyster Bay Expressway to where?

A To the Expressway.

Q The Long Island Expressway?

A Exit 35.

Q That is 495?

A Yes.

Q Is that three lanes on each side?

A Yes.

Q Then you drive that to where?

A Exit 35 Port Washington Boulevard.

Q Is that a four lane road?

A Yes.

Q How many miles was it from the place you got off the Expressway to when you got into Port Washington?

A From the Expressway to Port Washington where the office was?

Q Yes, right?

A Approximately four miles.

Q Now, how long did that trip take you by the route you just said from Lindenhurst up to Port Washington?

A During what time of the day?

Q In the morning?

A In the morning if I did not hit traffic 40 minutes.

Q How about coming back at night?

A Coming home I take a totally different way because you cannot travel the Expressway at night.

I would never get home.

It takes me, it used to take me from five and I would get home 6:00 o'clock every day.

Q About an hour?

A Yes.

Q How many miles was it from your home in Lindenhurst to Port Washington?

A Approximately 24 miles.

Q The same distance as to Smithtown?

A Yes.

Q Or a mile or two further?

A Yes.

Q Now, when you worked out of Smithtown's office or St. James' office, did you ever do any work in Nassau County?

A I never did, maybe I think once I did a special with another supervisor, Minaro's Steak Pub, other than that no.

Q You knew the company operated in Nassau and Suffolk County?

A Yes, I knew there was one fellow that did Nassau County work.

Q What was his name?

A Jim Mickalicas (phonetic).

Q He regularly reported to Port Washington?

A I thought he usually took the work he had, his own route then, I only seen him, I seen him, I saw him four times in the office.

Q Did you report to Port Washington every single day?

A After I was reinstated, yes.

Q How about the end of the day?

A I would have to report back.

Q Before you went to Port Washington, when did Mr. Giordano tell you to come back every day?

A Approximately September 15th, 10th, you know.

Q Did he tell you why?

A No.

Q Didn't he give you any reason?

A No, he said he wanted everybody in at 5:00 o'clock and I could not be there any later than 5:00 o'clock.

Q This rule was applied to you?

A Yes.

Q It was applied to everyone else?

A Yes.

Q You don't recall him saying that is because I am doing this because some people are goofing off early?

A No.

Q You don't recall him saying any reason for this?

A No, I don't.

Q Did he tell all the men together at the same time about this change?

A No, well I never seen all the men together most of the time.

Q At the time he told you you had to report everyday?

A He told me.

Q Did he tell you personally or all together?

A Personally.

Q As far as you knew the rule was applied to everybody?

A Most of the men worked around the St. James area and they usually, most of them lived around St. James.

I was the one that lived in the town of Babylon.

Q Nobody else lived in Babylon?

A One other fellow.

Q What was his name?

A Bobby Vee.

Q Where did he live?

A I think North Babylon.

Q That is pretty close to Lindenhurst?

A Yes.

Q Was he told to come in everyday too?

A I don't know his schedule of work.

Q At 5:00 o'clock when you came back, who was there regularly when you came back at 5:00 o'clock?

A Jimmy Guenther was at his regular office, at his regular desk and Sal was there.

Q All the employees?

A No, no.

Q Now, when you were told to go to work at Port Washington and did you work there, was it, was it the same work you were doing in Suffolk County?

A Yes, except for one day, that was the first day I was reinstated, I did work with Jimmy Melville.

I did a restaurant with him and then I was on my own one day in Nassau County.

Q Did you do same type of work you were doing in Suffolk County?

A Yes.

Q You received the same rate of pay?

A Yes.

Q You got the same benefits, same holidays, same vacation?

Was anything changed, was any change made in your working conditions at all?

A Yes, I don't think he paid me for Thanksgiving and I am almost positive because I called some department up, the Labor Department and he had to pay me for Thanksgiving.

He had to mail me a check.

Q When he reinstated you and told you to go to Port

Washington, did he give you a reason?

A No, he did not.

When I was reinstated I received a letter from him stating I would report to the Port Washington office at 88 Baylies Avenue at the same work and same rate of pay.

Q Did you ever talk to Mr. Giordano about why you were working in Port Washington?

A I don't think I said, you know, said anything.

Q Did you at any point ask him how come I am working at Port Washington?

A I kind of knew why.

Q Did you ever talk to him about it?

A No.

Q Did he ever, you never asked him and you are saying he never told you?

A He wrote me that letter.

Q Outside of the letter, he never told you why you were reporting, being asked to go to Port Washington?

A No.

Q You never asked?

A No.

Q Did you ever complain to him about that fact?

A I complained about the fact.

Q Did you ever complain to him?

A Yes, about gas money.

Q You talked to Mr. Giordano?

A We had to call him early in the morning before we started work.

Q When did you talk to him?

A In the morning before we went to work.

Q What day, the first day, the second day?

A I did not talk to him the first day because Jim Melville dropped my equipment off.

Q When did you talk to Mr. Giordano by phone?

A The Tuesday when Bill came.

Q The second [illegible]?

A Right.

Q This was before you started work?

A 8:00 o'clock.

Q What did you say to him on the telephone?

A I did not, I just asked him, you know, if we had any work.

I did not complain at that time about the days because I was only working one day.

Q You did not talk about the days?

A It took two weeks or so.

Q You say the second morning you did talk to him on the telephone?

A Yes.

Q What did you say?

A We asked if there was any other work in our area.

Q What did he say?

A I don't recall at this time if he had any other work.

Q Did he give you a reason why he sent you to Port Washington?

A No.

Q When did you talk to him about the gas money?

A Approximately two weeks later.

Q Where was that, by telephone?

A By telephone.

Q Did you call him?

A When we called up in the morning.

Q What did you say to him?

A I told him it is not covering all the money, $25 a week is not covering the gas.

Q What did he say?

A That is what you are getting and that is what I paid you all along.

Q You say you were complaining that the $25 a week did not cover the gas, was this an allowance you got for using your car?

A Yes.

Q When you worked out of Port Washington, where were your stops?

A Bayshore, Babylon, Stony Brook, Port Jefferson, Nesconset

Comack.

Q Did you have stops in Huntington?

A Yes, Deer Park.

MR. KIMMELL: Judge, I don't know whether you are familiar with the geographic area of Long Island?

JUDGE DYER: Not that familiar.

Q Port Washington is west of Smithtown, is it not?

A Yes, it is.

Q Huntington is between Port Washington and Smithtown, is it not?

A Yes.

Q Bayshore or Babylon is also west of Port Washington and east of Smithtown, isn't it also south at the same time?

A Wait a second, Bayshore is south, is on the south side.

Q I said Babylon?

A Babylon is the same, not that much far apart, it is the southshore, it is south of St. James, West, south of St.James.

Q Southwest.

When you worked out of Port Washington did you service accounts in Nassau County?

A One day.

Q No other time?

A No.

Q When you complained about the gas allowance he said what?

A You got $25 all along and you are going to stick with $25.

Q At that point did you ask him why you were working in Port Washington?

A What could I do.

Q You did not ask him the question?

A No.

Q He did not tell you?

A No.

Q Now, Mr. Balz, you said you were terminated in December?

A Yes, first week in December.

Q Of 1974?

A Yes.

Q Before you went -- were you told by Mr. Giordano why you were terminated?

A Why I was terminated the second time?

Q Yes, in December.

A No.

Q After you were terminated, did you get a letter, registered letter from the company?

A I would have to see the letter.

MR. KIMMELL: May I have this marked as Respondent

Company's Exhibit 1 for identification.

(Whereupon, document referred to received and marked Respondent Company's Exhibit 1 for identificatio

Q Mr. Balz, looking at Respondent Company's Exhibit 1, did you receive that letter?

(Handing to the witness.)

A No, I did not.

Q There is a signature on the return receipt, is that yours?

A Yes, it is.

Q You are saying you did not receive this letter?

A No, I received my pay check in that certified letter.

Q You say you never received this letter?

A No.

Q Did you ever receive any letter like that?

A No, I did not.

Q Did Mr. Giordano tell you that you were fired because you did not get an application?

A No, he did not.

Q Because you did not get a license for a consumer, under the consumer affairs law, did he tell you that?

A No, he did not.

Q Did you find out that was the reason you were fired?

A Yes.

Q When was that?

A On my unemployment notice.

Q In other words, you applied for unemployment insurance?

A Yes, I did.

Q There was a hearing held?

A Yes, there was.

Q Did Mr. Giordano testify at this hearing?

A Yes, he did.

Q Did he give you a reason for your dismissal because you did not get a license?

A Yes, he did.

Q Did you get such a license?

A No, I did not.

Q What was the outcome of that unemployment insurance hearing?

A I received it, I won.

MR. KIMMELL: I want your Honor to note that the complaint, that there is no allegation that the dismissal of this employee on December, 1974 was discriminatory, the only reason we brought that evidence in was to remove any inference that it was

Would you mark this Respondent Company's Exhibit 2.

(Whereupon, document referred to received and marked Respondent Company's Exhibit 2 for identification.)

Q Mr. Balz, I show you a letter dated December 2, 1974 --

I withdraw the question.

MR. KIMMELL: I have no further questions.

JUDGE DYER: Mr. Konowe?

EXAMINATION

Q (By Mr. Konowe) Mr. Balz, do you recall exactly what date you signed your authorization card for Local 155?

A No, I don't.

Q Did you fill in the date on the authorization card which is General Counsel's 2B?

A Yes, I did.

Q Is that your handwriting that date?

A Yes.

Q Do you know of your own knowledge when you gave that authorization card to any delegate of Local 155?

A I gave it to Ernie Lombardi on that Sunday when we had that meeting.

Q When you say on that Sunday, this card is dated September 7th.

Do you recall what day of the week that was?

A No, I don't.

Q Do you recall how many days after yousigned the card, did you give this card to Mr. Lombardi?

A It was one or two days later.

I never held the card to long.

Q You think one or two days later?

A Yes.

Q Mr. Balz, were you present at the Employer's establishment on or about September 12, 1974?

A Was I on the premises approximately that date?

Q September 12th?

A I don't recall what date that is, what day of the week it was.

Q That was a Thursday.

A September 12th?

Q Yes.

A I guess I was there then.

Q At that time and place did you ever meet Mr. Castalino?

A I don't recall on that date, no I don't.

Q Do you recall whether any of your co-workers discussed with you that a representative of Local 522 was at the -- was talking to them?

A No.

Q Now, after you gave your card to Mr. Lombardi at this meeting, where was it, where was this meeting held?

A At the Village Diner in Smithtown, Jericho Turnpike.

Q That would have been about, if you signed the card September 7th, it would have been about the 9th?

A It was a Sunday.

Q It was a Sunday.

You are sure that was a Sunday, that would have made it September 8th, 1974?

A I suppose so, yes.

Q Now, can you tell us from that meeting on September, Sunday, September 8th, when for the first time you were advised that a contract had been signed with Local 522?

A At that time.

Q Counting Sunday September 8th, the meeting you had?

A Right.

Q How much later did you discover that 522 had a contract?

A A week or so later, approximately the 15th, the 17th, around there of September.

Q Prior to that time you had never heard of Local 522?

A No, I did not.

Q When you first were introduced to Mr. Castalino on or about the 17th?

A Yes.

Q That was at the employer's establishment?

A Yes, it was.

Q At that time you were advised that Local 522 had a collective bargaining agreement with the Employer?

A By that you mean he had signed a contract?

Q Yes.

A Yes, at that time we found out he did.

Q At that time did Mr. Castalino advise you about the collective bargaining agreement?

A Some of the benefits, yes, you know the pay.

Q He told you what the pay was going to be, what was negotiated?

A Yes.

Q Did he tell you what other parts of the agreement were negotiated?

A Gas allowance, the vacation.

Q Were you advised that the agreement would require that employees after their 30 days of employment would have to either join the union or make tender to the union for dues, initiation fees?

A Yes, he told us about the 30 days, if you don't sign you are liable to lose your job, he told us that.

Q Now, did a month or more expire after Mr. Castalino's meeting with you when you were first discharged?

A Well, I did not count the days, I was not counting 29 or here comes the 30th day.

It was approximately the 30 day after we had the meeting down in the basement.

Q Do you know whether you were discharged onthe 18th or 19th?

A It was the 18th.

Q You are sure of that?

A Yes.

Q Do you know what day of the week that was?

A I am pretty sure it was a Friday.

Q Had you met Mr. Castalino or any member of 522 again prior to your being discharged?

A No, I did not.

Q No one contacted you from Local 522?

A Between the time that I seen him at the meeting down in the basement and the time he asked me to join?

Q Yes.

A No.

Q Mr. Balz, did Mr. Castalino again request that you sig an authorization card for Local 522 or tender dues to the union in initiation fees before your discharge of October 18th?

A He asked me, is that what you are asking me?

Q Again?

A He asked me October 18th if I was ready to join.

Q What did you say?

A I said no way.

MR. KONOWE: No further questions.

MR. KIMMELL: I have a few.

EXAMINATION

Q (By Mr. Kimmell) Returning to your dismissal of December, was it your testimony that you did not know why you were fired then?

A That is right, when me and Billy Raupp went to Howard

Johnson and called up to find out why we were discharged he said I do not have to tell you.

Q Did you know anything about this, having to get a license from Consumer Affairs?

A I called up Consumer Affairs.

Q How did you know to call them?

A Because it had Department of Consumer Affairs.

Q How did you know they were interested in your getting a license?

Did Mr. Giordano tell you you would have to get a license?

A Sal's brother Cooky in our work was the application with a note on the application must be filled out and $15, $15 check or money order had to be, you know, placed in it for the license.

Q You were given an application by Mr. Giordano's brother?

A Yes.

Q With a note you had to fill it out and mail it back to Consumer Affairs?

A Yes, not mail it, we had to give it in an envelope to give it to Sal, that he would mail it.

Q You had to file a fee?

A Yes, $15.

Q A $15 fee?

A Yes.

Q Was this an application to be a salesman?

A Yes.

Q Did you fill it out and give it back?

A No, I did not.

JUDGE DYER: Counsel, why are we going into this.

There is no allegation about this.

Why are we bothering about it?

MR. KIMMELL: I think you are right.

JUDGE DYER: Let's forget this and get to something else.

MR. MATHERS: I have a couple of questions.

I want to get the application out of the way and back on the road again.

EXAMINATION

Q (By Mr. Mathers) Prior to your rehire on October 26th, were you aware that the company maintained an office in Port Washington?

A I did not know of such an office.

Q You worked for the company about five or six months prior to this union problem first coming up?

A Yes.

Q At no time in that five or six months did you hear about anybody working in Port Washington?

A No.

Q When you drove up to that office of 88 Baylies Avenue on the 26th I believe it was, did you see a sign that said Scientific Pest Control?

A No.

Q Did you see any sign at all that identified it?

A No.

Q What did you see?

A Matelli Smith Garden Supply Center.

Q The sign said a garden supply.

Was there any indication or sign that said it was an office of Scientific Pest Control?

A No.

Q At anytime subsequent to the 26th did you see a sign identifying it as an office of Scientific Pest Control?

A Yes, a couple of days later there was a cardboard sign put it that said Scientific Pest Control.

Q You testified on the outset that Port Washington was approximately 40 miles away from St. James?

A I think I said 30, I am not even sure.

Q Is it your testimony that with the exception of a job in Hempstead and assisting another individual in Nassau County that all of your work from Port Washington's office which is approximately 40 miles further west of the St. James office was the work you had been assigned to before that, is the Babylon work and other work in Suffolk County?

A Yes.

MR. EISENBERG: I have one more question.

REDIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Balz, you testified concerning a meeting with Local 522's delegate in Mr. Giordano's office, where i s Mr. Giordano's office in the shop?

A Down in the basement of the house office, the whole plant.

Q What is on the floor above it?

A When you walk in the door you have the three, two desk with a secretary's office.

Q Who sits there?

A In the morning Jimmy Guenther and Henry and Jim Melville the supervis or sits there and after they go out and do their work then the secretary sits there, then there is another room where we have our work and the next room back is the punch clock area and the clean up area, a lavatory.

MR. EISENBERG: I have nothing further.

MR. MATHERS: I have one more question.

RECROSS EXAMINATION

Q (By Mr. Mathers) When you were assigned to the Port Washington Office, when you were assigned to the St. James office you testified you took three days work in the beginning, did your three days and reported back after the third day.

When you were assigned to the Port Washington office did you have to pick the work up every morning and return to the office every evening?

A Yes, I did.

MR. MATHER: No further questions.

JUDGE DYER: Any further questions, gentlemen?

MR. KIMMELL: Just one second please.

EXAMINATION

Q (By Mr. Kimmell) Weren't there some days when you worked out of Port Washington, when you were given work for a few days in the morning?

A No, I would have to report every night back there.

Q Weren't there some days when you were given work for several days at a time?

A No.

Q Never?

A All the work was there in envelopes, Monday, Tuesday, Wednesday, somebody dropped the work off.

I only got one envelope a day.

Q Now, having to report to work every morning and every evening at Port Washington, that was no changeover from St. James, was it?

A Yes, it was. Like I explained before at the beginning I used to take a couple of days work.

Q That changed before?

A Yes.

Q Before you were transferred to Port Washington you had to report every morning and every night at St. James, did you have to?

A Yes.

Q Having to do the same thing at Port Washington was not a change?

A Not for the time prior to.

JUDGE DYER: Thank you.

MR. MATHERS: I have a prior appointment and I have to leave.

JUDGE DYER:It is up to you counsel.

MR. EISENBERG: General Counsel calls Mark Minter.

Whereupon,

MARK MINTER

called as a witness, having been first duly sworn in by Judge Dyer, was examined and testified as follows:

JUDGE DYER: Please state your full name and address for the record.

THE WITNESS: Mark Curtis Minter, 2825 Locust Avenue, Ronkonkoma.

DIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Minter, were you employed by Scientific Pest Control?

A Yes.

Q When were you hired?

A In April, 1974.

Q When did you last work for the company?

A September 13, 1974.

Q What was your job?

A Route exterminator.

Q What did you do during the normal working day?

A I went to customer's houses and sprayed trying to get rid of any insect or rodent problems.

Q Mr. Minter, did you ever sign a card for Local 155?

A Yes, I did.

Q Who gave you the card?

A Bill.

Q Can you speak up?

A Bill Raupp.

Q Where were you when he gave you the card?

A I was at a gas station.

Q Did Bill Raupp speak to you at that time?

A Yes.

JUDGE DYER: The cards are in evidence.

There has been no question about it, that I know about, do you need anything else about it?

MR. EISENBERG: About Raupp's union activities I think it is relevant.

Q Did Bill Raupp say anything to you about the card?

A He said it was for the Union, that they were going to bring, meet a union representative.

They were going to have a union representative meet with us and possibly bring them in.

Q Did he identify the union?

A Yes, he did.

Q What was that?

A It was 155.

Q At anytime after Bill Raupp spoke to you about Local 155, did Mr. Giordano talk to you in anyway?

A Afterwards?

Q Yes.

A Well, on the following Monday he asked me --

Q Do you know the date?

A The 9th, he had a group of us in the office.

Q Where were you when Mr. Giordano spoke to you?

A In the office.

Q What part of the office?

A In the room with the route cards.

Q Was that the basement or upstairs?

A The upstairs.

Q Who was present at this time?

A About five or six, of course I am not sure exactly, I believe Tom Clifford was there.

I am not sure exactly.

Q What time of the day was this?

A At the start of the day.

Q About what time?

A Eight, 8:30.

Q How did you happen to be at the route card part of the office?

A That is where we picked up our day's work each morning.

Q Was this the time you normally would start your day's work?

A Yes.

Q What time again was that?

A Around 8, 8:30.

Q What did Mr. Giordano say to you?

A Well, he pointed to each one of us and asked us if we were for bringing in the union.

Q Did you reply?

A Yes, I did.

Q What did you say?

A I said I was.

Q Did Mr. Giordano say anything else?

A Well, after he asked everybody, he just said something to the effect that is all I want to know, get to work, you are on company time or something like that.

Q Did Mr. Giordano say anything, the union, he was talking about, did he say its name?

A No.

Q At anytime prior to this occasion did you ever hear of Local 522 of the Teamsters?

A No.

Q Did anybody ever talk to you about Local 522 of the Teamsters?

A No.

MR. EISENBERG: No further questions.

MR. KIMMELL: Do you have an affidavit?

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

CROSS EXAMINATION

Q (By Mr. Kimmell) When did you come to work for this company?

A In April.

Q Now, let's go to September 9th.

What time did you report to work September 9th, that is Monday after you had the meeting with Local 155 in the Village in Smithtown, okay?

A That Monday, yes.

Q What time did you get there?

A 8:00 o'clock.

Q What did you do when you got there?

Did you go to work or what?

A Well, right after I got there I believe Mr. Lombardi got there shortly afterwards and Sal and him were talking outside.

Q Did you fellows wait outside while they talked?

A They were talking outside, we were waiting in that room there.

Q Did they go inside?

A Yes.

Q By them I mean Ernie Lombardi?

A I am not sure if Ernie came in right there or not.

Q Did they talk to each other for a period of time?

A Yes.

Q Did they also go inside and talk?

A They talked inside.

I am not sure if it was right after.

Q How long altogether did the two of them talk to each other?

A I am not sure.

Q 15 minutes, an hour, two hours, a half hour?

A I guess about 15 minutes.

Q You fellows remained outside?

A Inside, they were talking outside.

Q You fellows went inside?

A Yes.

Q You were in the route room?

A Yes.

Q After they got through talking, did you see Mr. Lombardi leave?

A I am not sure.

Q Now, then Mr. Giordano came over and asked you whether you signed for the union?

A Yes.

Q Who was with you when he asked you that?

A I am not sure exactly who was in that room there, there were about a half a dozen.

Q Do you know Dennis Balz?

A Yes, I know him.

Q He was here before?

A He is here.

Q The fellow with the long hair, do you remember him?

A Yes.

Q Was he one of the fellows?

A I believe so.

Q How about Mike Castantino, do you know him?

A Barely.

Q Was he one of the fellows that Mr. Giordano asked?

A I don't know.

Q You said yes?

A Yes.

Q Did the other fellows also say yes?

A Yes.

Q Okay, then did you go to work?

A Yes.

Q Did you call your wife up that morning?

A I did.

Q About what time?

A It must have been about 9, 9:30.

Q In the morning?

A Yes.

Q She was still home?

A Yes, she was.

Q What did you say to her on the telephone and what did she say to you?

A Well, I told her, I called to let her know what happened at the office and she told me that a place I applied for a job had called to tell me that they wanted me to start working there.

Q Had you applied for a job?

A Yes.

Q Where was that?

A Huntington Cable.

Q Cable T.V.?

A Yes.

Q When had you applied for that job?

A About a month and a half, two months before that.

Q Your wife told you on the telephone that they had telephoned your home?

A Right.

Q They told you to come to work?

A Told my wife.

Q To tell you to come to work?

A Yes.

Q Did your wife tell you when they wanted you to come into work?

A She said that they wanted me to start as soon as I could.

Q Did you call Huntington T.V. back?

A Later I did.

Q Well, before you called them, did you talk to Mr. Giordano?

A Yes, I did.

Q What time did you talk to Mr. Giordano?

A Shortly, just a little while after that.

Q Maybe around 10:00 o'clock in the morning?

A Well, I went back to the office and I waited quite a while.

I guess somewhere around an hour I waited for him to get done talking to Ernie.

Q Would that be about 10:30 in the morning, you called your wife about 9:30?

A I am not exactly sure.

Q I understand it is a long time ago.

As best you can remember?

A I waited about, it must have been 10:30, 11:00 o'clock.

Q 10:30? 11:00 o'clock?

A Yes.

Q What did you tell Mr. Giordano?

A That I found another job and that I was going to stop.

Q Did you tell -- did you tell Mr. Giordano when you were going to start?

A I said that I probably would be starting the next day.

Q Did you start the next day?

A No, no I did not.

Q When did you start?

A I started the next Monday.

Q The next Monday?

A Yes, the 16th.

Q The 16th?

A Yes.

Q September 16th?

A Yes.

Q Did you work out the rest of that week?

A Yes, I did.

Q Now, hadn't you told Mr. Giordano before this time that you had, that you were going to quit to go to work for this Huntington Cable T.V.?

A I did not know I was going to, I would, I had given up hope at that time.

MR. KIMMELL: Mark this Respondent Company's Exhibit 3 for identification.

(Whereupon, document marked and received as Respondent Company's Exhibit 3 for identification.)

Q Mr. Minter, I show you what has been marked Respondent Company's Exhibit 3, do you knowwhat this is?

(Handing to the witness.)

A Yes, I do.

Q Is that in your handwriting or at least the upper portion in your handwriting?

A Yes.

Q At the bottom it says Cable T.V. and the telephone number, is that your handwriting?

A No.

Q Did you give this note, without the exception of the lower portion of it to Mr. Giordano?

A Yes, I did.

Q This other portion where it says Cable T.V., that was not on it when you gave it to him?

A Right.

Q Was that the name of the company and the telephone number of the company you went to work for?

A Yes.

Q When did you give Mr. Giordano that note?

A I gave him that on the morning of the 9th.

Q Does the note say I, Mark Minter as of 9/9/74 leave this job on my own free will to gain further employment?

A Yes.

Q Was there something written under the 9/9/74 and is the 9 marked over it?

A Yes.

Q What is written underneath it?

A I cannot --

Q Does it look like an 8?

A Yes.

Q Do you know who wrote over, who wrote the number over it, is that your handwriting?

A I believe that I started to write my birth date down, I have a tendency to do that and by the time I put down a date for some reason it starts coming at me because it is the same on quite a few forms.

Q Now, it shows up there a date of 8/27/74 at the top of the letter, is that letter, was that date on there when--

A No.

Q Is that your handwriting?

A No.

Q Do you know who wrote that down?

A No.

Q Isn't it a fact that Mr. Giordano wrote that down in your presence when you gave him this note?

A Not to my knowledge.

Q Didn't you see him write it?

A Not that I remember.

Q Isn't it a fact you actually gave him this note on August 27, 1974, the date that is written on there?

A No.

Q You say you had already applied for this job?

A Yes.

Q Had you decided to leave the job if you got the job?

A Yes, I would have been making more.

Q More money?

A Yes.

MR. KIMMELL: I offer Respondent's 3 in evidence.

JUDGE DYER: Any objection?

MR. EISENBERG: May I have Voir Dire -- I withdraw that, I have no objection.

JUDGE DYER: Proceed.

MR. KIMMELL: We don't have a copy, we will get you one, maybe you can help us out on that.

MR. EISENBERG: Sure.

MR. KIMMELL: That is all the questions we have.

(Whereupon, Respondent Company's Exhibit 3 heretofore marked for identification received into evidence.)

MR. EISENBERG: Nothing further.

JUDGE DYER: Thank you Mr. Minter.

(Witness excused.)

MR. EISENBERG: General Counsel calls William Raupp.

Whereupon,

WILLIAM RAUPP

called as a witness, having been first duly sworn in by Judge Dyer, was examined and testified as follows:

JUDGE DYER: Will you state your full name and address for the record?

THE WITNESS: William C. Raupp, residing 135 South Willside Avenue, Nesconset.

DIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Raupp, were you employed by Scientific Pest Control?

A Yes, I was.

Q When were you hired?

A November 22, 1973.

Q Did there come a time when you were discharged?

A Yes, I was.

Q When was that?

A One time in September, the 7th, the next time October 18th or thereabouts and December 7th.

Q What year was that?

A 1974.

Q And in what capacity were you employed?

A As an exterminator service routeman.

Q And where did you do your work?

A All of Suffolk County.

I did St. James, Port Jefferson, Smithtown, Nesconset, Centereach, a few stops in East Northport, Huntington.

Nothing in Nassau County at all.

Q How did you get to your work assignments?

A Either we had a daily route which were continuous service accounts, each month, plus we would get specials on customers that would call into the office and say they would like to either start service or wish to be reserviced again.

Q During the course of your employment how many days a week did you work?

A Before I was involved in union activity, I worked Monday through Saturday.

Q Can you give us a date?

A From March to September, I'd say roughly about September 12th, the last week after I was discharged that week, when I was reinstated, around September 7th, September

9th.

I was rehired and then I was told my hours, we were going to be in Monday through Saturday, Saturday every other week.

Q Who told you this?

A Mr. Giordano.

Q Where were you when he told you this?

A In the office where the service accounts and Mr. Giordano's contracts are.

Q Was anybody present when he told you this?

A Yes, I believe Tom Clifford was present and I believe Dennis Balz and Mark Minter.

Q Could you, if you answer this, could you again tell us how many days a week you worked for March through September 12th or whatever?

A I worked six days a week, Monday through Saturday.

Q What was your salary when you were first hired?

A I was first hired at $110 and one month later I was making $125, after I had been given some experience in on the job training.

Q Did you get any other raises after that?

A Yes, I did, in March, Mr. Giordano, I had spoken to Mr. Giordano and Mr. Giordano said I could work every Saturday for $150 a week.

Q Before March of 1974, were you given any extra compens tion in the way of gasoline allowances?

A No, Mr. Giordano paid for all my gasoline.

Almost 90 percent of the time I was using Mr. Giordano's van.

Q Did your salary remain at $150 throughout the course of your employment?

A No, it did not, it dropped from $150 to $125 and $25 for gasoline allowance.

Q During the course of your employment did Mr. Giordano ever offer you any special employment benefits?

A Yes, he did, he had told me one day that he would send me to Farmingdale University to study courses at night for extermination and fumigation.

Q Do you remember when he told you this?

A He told me previous, roughly before August or July, the end of July, the beginning of August.

Q Did he tell youagain?

A Yes, he told me the day of my last discharge, September 7th.

Q What did he tell you on September 7th?

A He told me that since I was involved in union activity I was no longer eligible to go to Farmingdale University and he tore the check and my application up in front of me.

Q Did he ever say how he is going to send you to Farmingdale University?

A He said he was going to pay for the whole thing.

Q When did he say this?

A Roughly about July, August he said he would, was going to absurb the fee.

Q Did he say it once or more than once?

A More than once, several times.

I don't remember the exact dates that he told me, it was a couple of times in front of other servicemen, he had mentioned it.

He mentioned one time that he was going to send John Micalica, myself and one other serviceman who I don't remember to school.

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

During an off the record conversation the parties agreed to stipulate into evidence, Respondent Union's Exhibit 1A through 1L, being Union authorization cards for Local 522.

By the stipulation receiving them in evidence, General Counsel and the Union Local 155 do not agree that the cards of Mark Giordano or Joseph Giordano should be counted but they do not contend the authenticity.

I understand that was agreed to prior to this time [illegible] counsel Mr. Mathers was here, we brought this conversation up prior to the last going off the record.

It is my understanding he agreed.

If he has any questions he can bring it up tomorrow.

Based on what I said any objection to receipt of Respondent's 1A through L coming into evidence.

(Whereupon, there was no response.)

JUDGE DYER: It is received.

(Whereupon, Respondent's Exhibit 1A through L were received into evidence.)

Q Did there come a time that you heard of Local 155 SEIU?

A On the date of September 5th I believe.

Q How did you hear about it?

A I came into the shop that morning.

Q About what time?

A About 8, a little after 8, not much and Mike Castantino and Anthony Nuzzi said that they would like to speak to me and I said all right and they said, come on out of the van because they were loading up.

I had to go out there anywhere toload up my chemicals.

They said they talked to a union representative, Mr. Ernie Lombardi from Local 155.

They told me that -- they asked me if I was interested, they told me what the Union had to offer and what benefits it has to offer.

I said certainly I will go for it, I said I could use

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better salary.

They told me that Mr.Lombardi would contact me either late that afternoon or tomorrow morning.

Q Did there come a time when you met with Mr. Lombardi?

A Yes, I did.

Q When was the first time?

A That morning.

Q Where was this?

A I met him at the Exxon Service Station, that is maybe a quarter of a mile down the street, through the service station where we normally gas up all the vehicles.

MR. KIMMELL: I know this is in for background, I think we have the information of several witnesses, it is redundant.

We don't know what happened during the period he is talking about, doesn't it rather clutter up the record, we had it from several witnesses.

JUDGE DYER: I don't know what we are getting into.

MR. KIMMELL: It seems to me the same material we got before.

JUDGE DYER: I trust counsel will cut down on whatever extraneous stuff he can.

Q Between September 5th and September 9th how many times did you talk to Lombardi?

A I would say maybe six times, eight times.

Q How did you speak to Mr. Lombardi?

A How did I?

Q Yes.

A I met him at the service station and he told me about the Union and I told him I was interested and he said when can I make an appointment to show you all the literature and the boys.

I said roughly around lunchtime and I made a set time for him because I knew roughly I could take my breaks with my stops that I was working in Smithtown area and I had made reservations with him to meet at 12:30 and we had lunch there.

I signed the card for him at that time.

Q Were you with him at anytime after this?

A Yes, I was with him.

I called him up the Saturday night of the 7th and I was with him almost half a day Sunday which was the 9th or the 8th or something like that, the 8th I believe it was.

Q Between the period of time September 5th and September 9th, 1974, did you talk to other employees in anyway about Local 155?

A Yes, I did.

Q Who did you talk to?

A I was asked by Mr. Lombardi to do the inside organizing for him and I agreed to.

I talked to Tom Clifford.

I talked to Dennis Balz, Mark Minter, Sal De Meo, John Micalica, Bob Valano, and Pat Tierney I had talked to too.

Q Did you speak to any employees around the premises or in the premises of the St. James office?

A Not in a sense of soliciting.

Q Did you speak to them?

A Yes, I did.

I told them I would like to talk to them about going, unionizing and that was my extent on the conversation.

Q Who did you speak to at or about the promises at the St. James office?

A Bob Valano for one.

I told him I would like to speak to him about union activity.

I handed him a card from Local 155.

I had told Sal De Meo I would like to speak to him about the union.

Dennis Balz I spoke to I believe and the same with Mark Minter.

Q Do you remember, do you remember, did you solicit signatures or authorization cards from Local 155?

A Yes, I did.

Q Did there come a time during the period September 5th and September 9th that Mr. Giordano spoke to you about Local 155 in anyway?

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A He did.

Q Can you tell me when was the first time?

A Saturday morning, Saturday afternoon roughly about between 12 and 12:30.

Q Where were you at this time?

A Entering Mr. Giordano's shop on the side of the pest control at St.James.

Q How did you happen to be there?

A I was coming back after finishing my service work for the day.

Q Where did you speak to Mr. Giordano from?

A Mr. Giordano was sitting out in the main office as I was entering and Mr. Giordano said he would like to see me down in the basement which is his office and I said just a moment Sal because I was puting my route work awayand I walked down with Mr. Giordano.

Q Was anyone present in the office with you and Mr. Giordano?

A As far as I --

Q In the basement office?

A No, there was not.

Q What did Mr. Giordano say to you and what did you say to him?

A Mr.Giordano had asked me what was the story with this Union and I told him yes, Isaid we are bringing in the union.

we are looking for better benefits and better salary and Mr. Giordano says well the only one I have to worry about is myself.

He said I don't blame you for going to the union.

He said I probably would do the same thing if I was working for an employer and looking for a better salary.

He said you could always quit and get another job.

I said no, I liked this line of work.

Then Mr. Giordano said well, you are being terminated to leave my equipment in the garage and he said this is going to ruin you for going to Farmingdale University for school in which he pulled out my personal file and pulled out an application and check from Scientific Pest Control to go to Farmingdale University at night and tore it up in front of me.

He said he would most likely black list me with all the other exterminators, I would probably never get a job with an exterminating company again.

He would close up shop if any union came in.

He would close up, get rid of all the regular service customers, service workers and keep Jim Melville, Guenther, Henry Knox and work out of his basement.

Q Did he say anything to you about authorization cards?

A Yes, he did.

He had asked who brought the union in and I told him no one and then he said somebody had to bring them in.

I said that the union had contacted us and that I was the inside organizer and that I had spoken to most of the people.

Then Mr. Giordano said do you have any cards from Local 155 and right after I pulled out of my pocket some cards to show Mr. Giordano.

Mr. Giordano grabbed for them and put them in his pocket and said at that time, we were just about at the top of the stairs leaving from the basement up to the main office and Mr. Giordano said take your car around back and empty out your chemicals and your equipment.

As I was leaving I said okay.

As I was leaving I said, Yuonne who was his secretary I made arrangements to speak to her afterwards.

Q After you finished speaking with Mr. Giordano, did you turn in your chemicals?

A Yes, I did.

Q How did you do that?

A I brought my car around the back where he has a garage, where all the chemicals are stored and emptied my chemicals out of my car along with the sprayer and two chemical boxes, boxes loaded with chemicals.

Q Did you contact anyone concerning this incident, any Local 155 delegate?

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A Yes, I did.

I called, after leaving Mr. Giordano's office I immediately went down to a Pizza Parlor and called Mr. Ernie Lombardi and told him I was discharged and Mr. Giordano found out about the Union activity and that Bob Valano had spoken to Mr. Giordano about the union activity and this is the information I received from Yuonne who was the secretary.

Q Did you ever work Sundays?

A Yes, I did.

I worked one Sunday for Mr.Giordano doing tree spraying

Q Were you scheduled to work Sunday September 8th?

A No, I was not.

Q When was the next day, did you report to work -- Withdrawn.

You were at the premises of Scientific Pest Control on the following Monday?

A Yes, I was.

Q September 9th?

A Yes, I was at 8:00 o'clock in the morning there abouts.

Q How did you happen to be there?

A Mr. Lombardi had told me he would represent me and talk to Mr. Giordano about getting me reinstated due to the fact it was an unfair labor activity for firing a person fighting for their civil rights.

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Q Were you put back?

What happened on September 9th, with respect to your employment status?

A We waited approximately about five after, ten after eight then Mr. Giordano arrived.

The only one that was in the shop was Mr. James Guenther who was sitting at the main desk.

Ernie Lombardi and myself were present and Mr. Giordano pulled up.

Ernie introduced himself telling who he was, Local 155 representative.

He wanted to know why I was discharged and Mr. Giordano said I was not discharged and at that point I commenced to walk inside and Mr. Giordano and Mr. Lombardi were, stayed outside for a few minutes and talked.

That was about maybe five minutes.

Then they both entered inside and went down in the basement for several minutes, I would say, then they came back up and Mr. Lombardi said, told us to go back to work, for me to go back to work and just go about our normal business as we normally would and at that time I did my service work, I went out to the garage and received my chemicals again.

Q Did there come a time after you were returned, told to return to work that Mr. Giordano spoke to you in anyway

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concerning any union?

A As far as what?

Q After September the 7th, did Mr. Giordano talk to you in anyway concerning a union?

A Yes, Mr. Giordano told me if I could clear up the union activity I would have my job back.

Q When was that?

A Saturday afternoon.

Q After that Saturday afternoon, did Mr. Giordano speak with you in anyway about a union or Local 155?

A Yes, after we came back from the service work that Monday night Mr. Giordano had a couple of us in the back put away our service work.

Mr. Giordano came back to us and present was Mike Castantio, Tom Clifford, Mark Minter, Dennis Balz and Tony Nuzzi and little Sal De Meo.

He had asked if we were all in favor of the Union, Local 155 and we all stated yes and he said well I will fix that.

He said the union will never get into his shop and then he walked out and the rest of us just commenced putting our service work away.

Q What time of the day was this?

A Approximately about 5:00 o'clock, a little after.

Q At anytime after September the 9th, did Mr. Giordano

talk to you in anyway concerning your terms and conditi
of employment?

A Yes, he did, he told me --

Q When?

A September, roughly about the 10th or 11th, Mr. Giordano
came in.

Q Where were you at this time?

A In Mr. Giordano's office, in the back room where the
route work was kept.

Q What time of the day was this?

A I'd say maybe a quarter to five in the afternoon.

Mr. Giordano came back to me and --

Q Was anybody there?

A Yes, I believe Dennis Balz was there and Tom Clifford,
they were there.

I am not certain who, if they were there.

I remember somebody, a couple of people being there.

I don't remember exactly who it was.

Q Did Mr. Giordano say anything to you?

A He handed me a receipt from the service station that
we used for service, that use to service our vehicles.

He handed me a slip of paper that was a receipt being
paid on a brake job done on my 1972 Volkswagen.

Mr. Giordano told me he wanted me to reimburse him
for the money he laid out for that car.

Q When did Mr. Giordano lay out money for that car?

A Roughly the beginning of August, between the beginning and mid August.

Q Did you say anything to Mr.Giordano at this time?

A When he handed me the receipt?

Q Yes.

A I told him no, I refused to pay it, I was using my vehicle for his service work at that time.

Q As of that time I guess the beginning of August were you getting any extra reimbursement in the form of pay each week for automobile expenses?

A No, I was not, I was being paid a flat salary of $150.

I was paid by just the weekly salary.

That did not include gasoline due to the fact Mr. Giordano paid for all my gasoline on all of my cars.

Q Did Mr. Giordano speak to you about any other employment benefits at anytime?

A Yes, he did.

He told me from now on he was going to cut my salary back to $125 and that I would be working every other Saturday and paying me $25 for gasoline.

I would not be using the company vehicle any more.

I would be using my own vehicle.

Q When was this?

A Roughly the 10th or 11th of September.

Q Was it the same time he told you about the --

A Yes, right after that time.

Q Did you say anything to him?

A No, I was, there was not any reply I could have given him.

I just said I don't, I could not understand why he was cutting my salary being I was doing my work even though I was involved with the union activity.

Q Did Mr. Giordano talk to you at anytime about any other conditions of employment?

A Yes, that same afternoon Mr. Giordano said from now on it was only going to be a half hour lunch instead of an hour and two, fifteen minute coffee breaks for the day.

Our hours would be 8 to 5 and each day we would have to come in in the morning and check out and check back in the evening and our stops would be up from 17, 18 stops to 23, 24 stops a day.

Q Did this all occur in one conversation?

A Yes, it did.

I did not leave the shop that day until roughly five P.M.

Q How many employees were there, if you can remember?

A I believe about three or four, not counting the supervisors which were inside.

Q Who else was there?

A Jim Guenther and Jim Melville I believe.

Q Prior to this time did Mr. Giordano ever tell you the company policy with respect to lunchtime?

A Yes, when he hired me he said you get an hour lunch and two, fifteen minute coffee breaks.

Q Did he ever say anything with respect to the company's policy concerning returning to the shop?

A Yes, Mr. Giordano said that if you lived in an area or had a special early in the morning you did not have to report into work, you could go right out from your home, right out to that stop and if you had servicemen like Dennis Balz who worked in an area near his home in Babylon, he would give him, stay in that area without coming in the shop as long as he called in to the shop several times a day.

Q Prior to September 9th had you ever heard of Local 522 of the Teamsters?

A No.

Q Did anyone ever speak to you about Local 522?

A No.

Q Did there come a time when you learned of Local 522 of the Teamsters?

A Yes, roughly I would say toward the end of the week, of the 9th, Mr. Giordano had stopped myself, and Mike Castantino, we were getting ready to leave the building of his company.

Q What did Mr. Giordano say to you?

A Mr. Giordano said I am bringing in the Teamsters and we would have to pay initiation of $150, that was just about it.

Q Did you ever hear of the Teamsters or Local 522 at anytime prior to this?

A No, I did not.

Q Did you ever meet a Local 522 delegate?

A Yes, I did.

Q Can you tell me when that was?

A Roughly I would say somewhere around the 16th or the week of the 16th.

Q Do you remember what day it was?

A I believe it was a Friday.

I am not positive.

Q Where were you when you met the Local 522 delegate?

A In Mr. Giordano's office.

Q How did you happen to be in Mr.Giordano's office?

A Mr. Giordano told us the night before he wanted us all in early that morning and to call our customers and make arrangements, we would not be going to the customers right away, we were going to have a meeting with the local representative of 522.

Q Where was the meeting held?

A In Mr. Giordano's office in the basement.

Q Who was present at this meeting?

A All the servicemen including the new servicemen which I have no idea what their names were, Henry Knox, Jim Melville, Jim Guenther, Mr. Castalino, Mr. Giordano, myself, Tom Clifford, Dennis Balz, Sal De Meo, Mike Castantino.

There were a couple of others, servicement there at that time.

Q You refer to Mr, Castalino?

A Yes.

Q Who is that person?

A The gentleman in the corner right there.

MR. EISENBERG: Let the record show that he is pointing to Mr. Castalino.

Q Did Mr. Giordano speak at the meeting?

A Yes, he did.

Q Did Mr. Castalino speak at the meeting?

A Yes, he did.

Q What did they say at the meeting?

A Mr. Giordano started the conversation off saying that he had signed a contract with 522 stating that they would be representing the shop and gave just about, an outline on some of the ideas that were coming across from the new contract, such as a rough idea on how many stops we had to do and length of coffee break and stuff like that and the gas allowance.

Then he had Mr, Castalino speak.

Q What did Mr. Castalino say?

A He explained the whole contract to us, that we would get no increase as far as gas, it would be the same.

He told us about our holidays, that we would be getting, like hospitalization, Blue Cross type thing.

Then we were told the contract was signed by Mr. Giordano and we were asked how many of us were affiliated with 522 and how many were not

Q What happened as a response to that question from anybody else?

A He told us to raise our hand to whoever was not -- it was myself, Tom Clifford, Dennis Balz, Mike Catantino, Sal De Meo and I told him we were not affiliated with 522, we were represented by 155.

Q Did somebody say that?

A Yes, I did say that.

Q Did either Mr. Giordano or Mr. Castalino reply to that?

A Yes.

Q What did Mr. Giordano say and what did Mr. Castalino say?

A Mr. Giordano did not say a word at that moment.

Mr. Castalino said we would have 30 days seeing that his union was in the shop, we would have 30 days to decide to sign over to 522 or we would be terminated.

Q At anytime after this meeting did Mr. Giordano speak to you in anyway about Local 522?

A Not Mr. Giordano particularly, Jim Melville, yes.

Q Did Mr. Giordano speak to you?

A Not that I recall.

MR. KONOWE: Can we go off the record?

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

Q Mr. Raupp, you testified that you were present at the shop on the 9th of September, 1974, is that correct?

A Yes, it is.

Q Was Pat Tierney there?

A Yes, he was.

Q Did you see him there?

A Yes, I did.

Q What did you observe him to do, if anything?

A He was loading up one of the vans to do a termite job.

Q What was he doing?

A Working.

Q How was he physically doing it?

A He was physically taking gallons of Clordaine and putting it into the van.

Q Did you see him go anywhere with the van?

A No, because I had left just before he did.

Q Did Pat Tierney ever talk to you concerning his employment status with Scientific Pest Control?

A Yes.

Q When was that?

A That evening of the 9th.

Q How did he talk to you?

A He was pretty upset, him and Tony Nuzzi, told me that both of them were laid off.

MR. KIMMELL: I will move to strike that as all hearsay, it is not even in the Complaint.

JUDGE DYER: Well --

MR. EISENBERG: I am not introducing it --

JUDGE DYER: What is the purpose of it counsel?

MR. EISENBERG: I am trying to induce evidence with respect to a statement made by counsel concerning the status of Mr. Tierney.

JUDGE DYER: Go ahead, let's see what it is.

MR. EISENBERG: I have nothing further along that line.

Q (By Mr. Eisenberg) Mr. Raupp, you testified that you were discharged by the employer on October 18th, is that correct?

A Yes, I was.

Q Did there come a time after that when you were [illegible]

A Yes, I was hired back on October 29th, I believe the date was.

I was sent a letter by Mr. Giordano stating I should report back to 88 Baylies Avenue, Port Washington at 8:00 o'clock in the morning.

Q Did you report to work at that time?

A Yes, I did.

Q How long after that did you work for the company?

A For approximately about a month and I was discharged again December 7th.

Q Did any boss of the company ever tell you why you were working out of the Port Washington office?

A Mr. Giordano stated to me I had called up the Saturday that I received Mr. Giordano's letter, registered letter and I called Mr. Giordano and I had asked him why we were being sent to Port Washington.

He said that now that Local 522 was in his shop that the men from Local 522 will go on strike if any personnel from Local 155 had entered back into the shop premises.

MR. EISENBERG: I have nothing further your Honor.

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

In an off the record conversation we decided to go on tomorrow and counsel indicated it is best to quit at this time because of the cross examination that may run for a while, but I understand you will give him, counsel copies of the affidavit of this witness so he can continue early tomorrow morning?

MR. EISENBERG: That is correct.

JUDGE DYER: We will recess until 9:45 tomorrow morning.

(Whereupon, the hearing was adjourned.)

BEFORE THE NATIONAL LABOR RELATIONS BOARD

29th REGION

--------------------------------------------------X

In the matter of: :

SCIENTIFIC PEST CONTROL CORPORATION :

-and- :

EXTERMINATORS, FUMIGATORS AND TERMITE :
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO :

-and- :

LOCAL 522, INTERNATIONAL BROTHERHOOD :
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA, : CASES NOS.
29-CA-4236
Party to the Contract : 29-CB-2058

LOCAL 522, INTERNATIONAL BROTHERHOOD :
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA :

-and- :

EXTERMINATORS, FUMIGATORS AND TERMITE :
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO :

-and- :

SCIENTIFIC PEST CONTROL CORPORATION :

Party to the Contract. :

--------------------------------------------------X

16 Court Street
Brooklyn, New York
September 23, 1975

The above-entitled matter was brought on for hearing pursuant to Notice at 10:15 A. M.

BEFORE:

JOHN M. DYER, Administrative Law Judge

APPEARANCES:

| | |
|---|---|
| JACK EISENBERG, ESQ. | 16 Court Street, Brooklyn, New York, appearing on behalf of the General Counsel. |
| LEONARD KIMMELL, ESQ. | Kimmell & Kimmel, 150 Broad Hollow Road, Melville, New York 11746, appearing on behalf of the Respondent Employer. |
| ALLEN MATHERS, ESQ.<br>(Not Present) | Israelson & Streit, 521 Fifth Avenue, New York, New York, appearing on behalf of Local 155, SEIU. |
| MILTON KONOWE, ESQ. | Charles R. Katz, 360 Lexington Avenue, New York, New York, Appearing on behalf of the Respondent Union, Local 522. |

ALSO PRESENT:

PATRICK CARROLL p 250

[illegible] [illegible]

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# PROCEEDINGS

JUDGE DYER: On the record.

## CROSS EXAMINATION

Q (By Mr. Kimmell) Mr. Raupp, when did you start working for this company?

A In november 22nd, I believe, 1973.

Q Right.

And when you started to work for the company, how many days did you work?

A Five and a half.

Q That meant, five days a week?

A And a half a day Saturday every other week.

Q Half a day Saturday every other week?

A Right.

Q What salary did you make?

A I started off at 110.

Q Were you raised thereafter to 125?

A Right.

One month after.

Q One month after.

You continued to work five and a half days a week?

A Every other week, yes.

Q So, it was five days one week and five and a half days on alternate weeks?

A Right.

Q Did there come a time when you worked more than that schedule?

A No.

I had asked Mr. Giordano for a pay increase of $150.00, I would work all six days, every week.

Q Six days every week?

A Right.

Q Did he agree to that?

A Yes, he did.

Q When was that?

A Roughly, in March, sometime.

I don't remember the exact date.

Q Was that around March 25th?

A Yes, I believe so.

Q Right.

So, you got a $25.00 a week increase, but you worked a day and a half, basically more a week?

A Right.

Q Okay.

Now, --

JUDGE DYER: Excuse me, a day and a half more every two weeks, not every week.

MR. KIMMELL: Every two weeks. Yes.

JUDGE DYER: Okay.

MR. KIMMELL: You're right.

Q (By Mr. Kimmell) Now, you do --

Is a good part of your company's work, or your ex-company's work, was termite work?

A To a certain extent, yes.

Q And do termites swarm at about the time we're talking about, in the early spring?

A Not around March, no.

Q When do they swarm?

A Roughly, around late April.

Q Can you explain what swarming means?

A Yes.

You would wind up seeing termites with wings, flying around, is what they consider a swarm.

Q And is that how the average homeowner knows that he has termites, when he sees these insects around?

A Basically, yes.

Q Does the work of the company get very much busier because of the termites during that season?

A Yes. To an extent, yes.

Q Is there also more general insecticide work going on in the spring rather than in the winter?

A No.

It's basically the same thing.

You're doing continuous, monthly service.

Q These are the people on a service contract?

A Yes.

Q Aren't there an awful lot of so-called specials, where people want particular jobs done?

A Well, we would try to avoid that, and put them on a regular monthly service.

Q Right.

But you pick up a lot more work during the spring and summer, don't you?

A To a certain extent, I would say.

Q Ther termite work is primarily during the spring and summer, isn't it?

A Right.

Q Right.

Now, when Mr. Giordano changed your schedule to six days, and gave you the additional money, did he tell you he was doing this because you were now coming into the busy season, and he needed you more?

A No, he did not.

Q Was anybody else put on a six day schedule at about that time?

A No, they weren't, that I know of.

Q When he took you off the six day schedule, which was about when, do you recall?

A Roughly, about the second week of September.

Q Right.

Did he tell you that he was taking you off the six day because the so-called busy season was over and work would slack down now for the winter?

A No, he did not.

Q He didn't tell you that?

A No, he did not.

Q Now, you say you asked to work six days a week back in March?

A I had asked him and he agreed to it.

Q All right.

Are you sure you asked for it, or he asked you to work six days a week?

A I had asked Mr. Jim Melville to talk to him, because at that time, Jim Melville was my supervisor.

Q Do you recall making a statement for the Labor Board, an Affidavit for the Labor Board in connection with this case?

A Yes, I do.

Q Do you recall saying in there the following sentence:

"This raise from 125 to 150 per week was because I agreed with Mr. Giordano's request that I work Saturdays."

Do you remember making that statement?

A I'd have to see my Affidavit.

Q Sure.

Right at the bottom of the first page.

(Handing.)

A To a certain extent it was, you know, how can I explain it, on a basis of both of us.

Q Doesn't that Affidavit --

Excuse me, I thought you finished.

A Where, I mean he did, I knew he did need me.

Q Why did he need you, Mr. Raupp?

A Due to the fact it was, at the time we had quite a bit of work coming in.

Q Because it was the busy season, isn't that correct?

A No.

It was due to the fact that one of the service men had quit, and I was filling in part of his route and my route at the same time.

Q But do you recall making that statement in here, in the Affidavit, that you -- that he asked you to work the six days a week?

A Yes, I remember making the statement. Yes.

Q Is there anything in that Affidavit about you asking for it?

A No.

Q Is there anything in here about your talking to Melville about working six days a week?

A No, there's not.

Q You didn't tell the -- Mr. Eisenberg, who took this statement, that, did you?

A Excuse me?

Q You didn't tell Mr. Eisenberg, who took this statement, that, did you?

A No, I did not.

Q Now, when you were let go around October 18th, is that correct?

A Right.

Q And then taken back about ten days later?

A Roughly. Basically, about that time.

Q You were told to go to Port Washington?

A Right.

Q And at the time that Mr. Giordano sent you to Port Washington, did he tell you why he was sending you to Port Washington?

A Yes, he did.

He told me because Local 522 was in the shop, and that he could not allow Dennis Balz and myself in the shop, due to the fact that 522 would go on strike.

Q In other words, he told you that if he let you go back, since you refused to join 522, the men would go out on strike, because of it?

A Right.

Q Did he tell you that he wanted to avoid that situation?

A Yes, he did.

Q Did he tell you, therefore, work out of Port Washington?

A He didn't put it in a sense of asking.

He put it in the sense of telling.

It was either that or --

Q Right.

Now, Port Washington, did you do the same type of work that you did out of St. James?

A Exterminating, yes.

Q Did you get the same rate of pay?

A Yes.

Q Did you do some work in Nassau County, too?

A Mr. Giordano had me travelling all over the Island.

Q The question is, did you do some work in Nassau County?

A A few stops, yes.

Q You did some work in Suffolk County?

A Right.

Q And the work in Suffolk County, was that in the western part of Suffolk County?

A No, it was not.

Q You did no work in western Suffolk?

A There was some work in western Suffolk County.

Q So, you're saying it was a little less convenient to work out of Port Washington, than it was to work out of St. ames?

A It definitely was.

Q Didn't you feel at the time, that it was better to have a job, even out of Port Washington, than to have no job at all at St. James, if the men went out on strike?

A Let's put it this way.

At the time Mr. Giordano laid me off, the whole economy was hurting on job status, so I had no alternative but to accept a job.

Q Now, you were finally let go in December because of this Consumer Affairs License?

A That's what I found out at the Unemployment Agency, yes.

Q Right.

Now, when did --

How long after you came to work there, did

Mr. Giordano offer you the possibility of going to Farmingdale A. & T?

A Quite a few times.

I would say, roughly, around March was the first time I heard about it.

Q Approximately three or four months after you started?

A About five months.

Q Yes.

At the time, did he tell you that this was a benefit he offered to all employees after a year of service?

A No.

Because due to the fact that I was not with him for a year at that time.

Q I know.

But did he tell you at that point, that you would get this when you completed a year's work?

A No.

Q As everybody else does?

A No, he did not.

Q Did he tell you in March, when you would start at Farmingdale, at his expense?

A He said, probably around September.

Q Now, when September came, did you register at

Farmingdale?

A Mr. Giordano had my application, and the check.

Q Did you make an attempt to register?

The semester starts right after Labor Day, doesn't it?

A Right.

Q Did you make an effort to register?

A Mr. Giordano had tore up my application and the check as of the 7th of September.

Q Right.

And didn't -- wasn't registration at Farmingdale before then?

A I have no idea.

Q Had you made any effort to discover when you had to register and when classes started?

A Classes started the end of September.

Q You're sure?

A Yes, I am.

Q Did you make any effort to register yourself?

A Yes, on my own.

Q Are you going there now?

A No, I'm not.

Q You say, on the 7th, he said you were fired?

A Yes, he did.

Q And then he tore up your check, is that correct?

That was his check, wasn't it?

A It was a Scientific Pest Control Corporation check.

Q Did he say, I'm tearing up the check because you're no longer working for me, and it's a benefit I don't give you, therefore?

A Affirmative.

Q Are you sure he fired you?

A I'm definitely sure.

Q When Monday morning came, you were back there, right?

A Yes.

Mr. Lombardi told me to go back, and he would represent me.

Q Do you recall that when Mr. Lombardi and Mr. Giordano spoke, were you around when they spoke?

A For a couple of minutes, yes.

Q Do you recall during the course of this conversation, Mr. Giordano saying, I never fired Raupp?

A Yes, I recall him saying that, but which I thought in my own opinion was a lie.

Q I'm not asking for your opinion.

Did you hear him say that?

A Yes, he did.

Q Did you also hear Mr. Giordano say, he can come back to work today?

A Yes.

Q Did Mr. Lombardi have to argue with him a lot, or push him a lot to get your job back?

A No.

Because he knew that if --

Q The question is, did Mr. Lombardi have to do very much arguing and pushing to Mr. Giordano to get your job?

A No.

Q Didn't Mr. Giordano say, he wasn't fired, and he can come to work?

Didn't he say this right away?

A Yes.

Q There was really no discussion about that, was there?

A They were out there for a few minutes, I would say.

Q How many employees were with you when Mr. Giordano -- when you say he asked whether you were for the Union?

A There was approximately five that I remember.

Q Do you remember their names?

A Yes, I do.

It was Tom Clifford, Mark Minter wasn't there, Dennis Balz, Mike Passantino, myself and Little Sal DeMeo.

Q All five of you said you were for the Union?

A That's right.

Q Was this after he had met with Mr. Lombardi?

A Yes, it is.

Q How long after he had met with Mr. Lombardi was this?

A Oh, I'd say, roughly, approximately about two, maybe three weeks after.

Q Three weeks?

A Yes, sir.

Q You're sure it wasn't the same day?

A Which time are you asking about?

Q I'm asking about the time that Mr. Giordano, as you say, went about asking a group of you whether you were for the Union.

A Inside the shop?

Q That's right.

A Well, there was two times Mr. Giordano and Mr. --

Q When was the first time?

A The first time Mr. Giordano came in that same afternoon.

Q After he met with Mr. Lombardi?

A Right.

Q And were you present at this conversation when --

A Yes, I was.

Q Right.

Were you present when Mr. Giordano asked Mr. Lombardi, show me the cards that you have?

A No, I was not.

Q Did Mr. Lombardi report to you that Mr. Giordano had asked to see the cards?

A Yes, he did.

Q And did Mr. Lombardi tell you he had refused to show Mr. Giordano the cards?

A He said he would show him if he had a clergyman or a lawyer or something like that.

Q It was the same day that Mr. Giordano asked you and the other men with you, if you were members of the Union?

A That afternoon, yes.

Q You all said, yes?

A The five of us said, yes.

Q Did he say anything else at that point?

A He said, I'll fix that.

No Union will come in.

Q Now, how many people asked you to join 522 before you were finally let go on October 28th?

Did Mr. Giordano ask you to join?

A Mr. Giordano had said that Local 522 was coming in, and had -- and that we should join.

Q Did he tell you if you didn't join under the Union Security Clause, he'd have to let you go?

A No.

That was by Mr. Casalino.

Q Mr. Giordano didn't ask you, didn't tell you that?

A No, Mr. Giordano did not.

Q Mr. Casalino did?

A Yes.

Q Did anybody else tell you if you didn't join within thirty days, you'd be let go?

A Jim Melville did.

Q Nevertheless, you didn't join?

A Right.

Q You and Dennis Balz?

A Right.

Q Everybody else did join.

A No, not at --

Well, all right, yes. I would say so.

MR. KIMMELL: That's all the questions I have.

JUDGE DYER: Mr. Konowe?

MR. KONOWE: No questions.

JUDGE DYER: Any redirect?

MR. EISENBERG: No redirect.

JUDGE DYER: All right, thank you.

(Whereupon, this witness was excused.)

MR. EISENBERG: Thomas Clifford.

Whereupon,

THOMAS CLIFFORD

called as a witness, was duly sworn and testified as follows:

JUDGE DYER: Be seated.

Give us your full name and address, please?

THE WITNESS: Thomas Charles Clifford.

9 Seventh Avenue, Smithtown, New York.

DIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Clifford, were you employed by Scientific Pest Control Corporation?

A Yes, I was.

Q When were you hired?

A I started in the beginning or -- about the beginning of January of '74.

Q Did there come a time that you were discharged?

A Yes, there was.

Q When was that?

A The date was October 31st.

Q Are you sure that's the correct date?

A No, I'm not.

Q In what capacity were you employed?

A I was a routeman.

Q Where did you do your work?

A My work was in Stony Brook, Centereach, Lake Grove, Smithtown, all out in Suffolk County.

Q How did you get your work assignments?

A Excuse me?

Q How did you get your work assignments?

A We had a regular route for each month, each day of the month, and we went in every day and picked up our work.

Unless you had a special that you had to be at at seven o'clock, because we only started work at eight, that you would not have to go into the office and you could just go from your house right to the first stop.

Q How many days a week did you work?

A I worked five days a week; every other week, I worked five and a half days, which was, the half day was a Saturday, which I did not get paid for, by the way.

Q What was your salary during the course of your employment?

A My salary was $125.00 a week.

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

Q (By Mr. Eisenberg) Did there come a time you learned about Local 155?

A Yes, there was.

Q Do you remember when that was?

A Not the date, no.

But I was approached by Billy Raupp, who had the --

Q Do you remember the approximate time frame?

A It was in September.

Q Do you remember what part of September?

A The very beginning.

I would say, the first week.

Q Who told you about Local 155?

A Billy Raupp did.

Q Where were you when Billy Raupp told you about it?

A I was at the office, and he had just said at the office that he wanted to see me after work.

So, I met him in a shopping center after work, and he showed me the card, which I signed.

Q After the time you first heard about Local 155, did there come a time that any officer or supervisor spoke to you about Local 155, or any Union?

A The day that Mr. Giordano found out that we were attempting to go unionized.

Q Do you remember when this was?

A This was on a Saturday, the -- let's see -- I believe it was September 7th.

It was the Saturday before the Monday of which Billy was reinstated the first time.

Q Who spoke to you that day?

A That morning, when I had gone in --

Q Who spoke to you?

Who?

A I don't understand the question?

Q Who?

What is the name of the person that spoke to you that day?

A Mr. Giordano.

Q Where were you when he spoke to you?

A I had just come in to do that day's work.

Q Where were you?

A The half a day.

Q Where were you?

A I had just walked in the main office.

Q Approximately what time of day was this?

A This was about eight o'clock in the morning.
Eight, 8:15.

Q Where did Mr. Giordano speak to you?

A Downstairs, in his basement.
Which is his office.

Q What did he say to you and what did you say to him?

A He had asked me that morning if I had heard of any Union activity or anybody trying to bring in a Union.
I replied, no.
He goes, if you do, would you please let me know.
And I said I would.

Q What did you do after that conversation?

A I went back upstairs and did my day's work.

Q After you finished your day's work, what did you do?

A Well, I did not really --
I was on my way back to the office that same day, that afternoon, about twelve o'clock, 12:30.
Mr. Giordano met me on the road to my -- to the last house that I was at, because he had found out that there was an attempt to bring in a Union.

MR. KIMMELL: I'm going to object to that and move to strike that last.

JUDGE DYER: This is the witness' opinion at this point.

MR. KIMMELL: Yes.

First of all it's not responsive, and furthermore, how does [illegible].

JUDGE DYE[illegible]t's his opinion, we don't know, it hasn't been substantiated.

Go from there.

Q So, you spoke to Mr. Giordano after eight o'clock that day?

A Yes.

Q Do you remember where this was?

A The road?

Are you talking about the first time or the second time?

I spoke to Mr. Giordano twice that day.

Q The second time.

A The second time, I think it was Long Beach Road.

Q Do you remember what town that was?

A It was Smithtown.

Q Can you tell me how Mr. Giordano met you?

A I was -- I had a company truck at that time, and I was going back to the office to see if anybody was there, or if I was too late.

So, I was going back on Long Beach Road.

Mr. Giordano was coming the other way with his car and his two sons in the car. He beeped the horn, instructed me to pull over. He made a "U" turn, and then came back over to the truck where I was.

Q Did he talk to you at that time?

A Yes, he did.

Q What time of day was this, again?

A This was about 12:00, 12:30.

Q What did he say to you and you to him, if anything?

A He had said something about that he now knows that we were attempting for a Union, and that he goes, why; and I go, we need more money, and the benefits; and he goes, well, all you had to do was come to me; and I go, well, Billy has come to you on a number of occasions, and you keep saying to Billy, well, we didn't do good this month, so we'll have to wait.

He also said, at that time, that if we did get the Union, that he would have to fire everybody, and just keep the supervisors and run it from his house.

Q Did he say anything about the name of a Union?

A Yes, he did.

He did mention the name.

Q What did he say in that regard?

A He said, I heard about Local 155.

Q Did he ask you anything about Local 155?

A No.

Q When he said, you should have come to me, was that all he said?

A Yes.

Q In that regard?

A Yes.

Q Did he refer to what he was talking about?

A Yes.

It was implied.

I knew what Mr. Giordano was talking about.

Q Come to you for what?

A Instead of going and taking it on our own to get a Union, as far as because we wanted more benefits and more pay, it was implied that I should have gone to him, if I wanted more money or something.

Q Did you ever attend any Local 155 meetings?

A Yes, I did.

Q Tell me when.

A I attended the one at the Village Diner, on, I believe it was September 8th.

Where Mr. Lombardi was.

It was a Sunday.

Q Did there come a time during the course of your employment that you heard of Local 522 of the Teamsters?

A Yes, I did.

Q When was the first time you heard of Local 522 of the Teamsters?

A I did not hear of the Local number.

All I heard at first was that he was going to try and bring in another union, a sweetheart union, we were told.

The first time I realized it was --

Q Do you remember when this first time was?

A I believe it was the 7th of September.

Q That same Saturday you testified with respect to before?

A No. Excuse me, no.

It was not September 7th.

I believe it was a week or so after that. Approximately.

Q I direct your attention to that meeting on Sunday, September the 8th.

Did you ever hear of the Teamsters at any time before that?

A No, I did not.

Q How did you first find out about the Teamsters?

A I heard it from a few of the guys at the office that, evidently, had been told.

Q Do you remember who you heard it from?

A Bill Raupp.

Q Do you remember what was said, what Mr. Raupp said to you?

A The only thing that was said was, Mr. Giordano was trying to bring in a sweetheart union to knock ours out, to gain recognition, first.

Q Did Mr. Giordano, in any way, ever talk to you about Local 522?

A No, he did not.

Q Never?

A Not to me.

Q Did you ever attend any --

Withdrawn.

Did you ever meet a Local 522 delegate?

A Yes, I did.

Q When was this?

A This was on, I believe it was about the 13th, the 13th or 14th, somewhere around there.

Q Speak up a little bit, please.

A I believe it was about the 13th or the 14th of September.

Q Where were you when you met this Local 522 delegate?

A At Scientific Pest Control shop.

Q Where in the shop?

A Downstairs in Mr. Giordano's office.

Q How did you happen to be there?

A We were called there by Mr. Giordano.

Q When?

A The day before, he had told us that there was going to be a Union Official in the following morning, in case you had early stops that, call him up, or, you know, tell him you're going to be late, because we were going to be at the office for awhile.

Q Who was at this meeting?

Who was present?

A All the service employees, all the supervisors, Mr. Giordano and Mr. Avalino.

Q Who are you referring to as Mr. Avalino?

A The man sitting in Court here.

MR. EISENBERG: Can the record show that he's pointing to Mr. Casalino.

THE WITNESS: Mr. Casalino, I'm sorry.

Q Did Mr. Giordano speak at the meeting?

A He just introduced Mr. Casalino.

Q Did Mr. Casalino speak at the meeting?

A Yes, he did.

Q Can you tell me what Mr. Casalino and Mr. Giordano said?

A Mr. Giordano introduced him as the Union delegate for 522, and that he was there to explain the type of benefits that this Union had for us, what it offered to us.

Q Did Mr. Casalino speak?

A Yes, he did.

Q What did Mr. Casalino say?

A He had a typewritten page in his hand, evidently with the benefits on it, and he went down the line telling us what holidays we would have off, the type of money, like, we'd be getting $30.00 more or so, and also that we had thirty days to join this. If not, we would be terminated.

Q Did either Mr. Casalino or Mr. Giordano say anything about the status of Local 522?

A In reference to it being a sweetheart union?

Q Its relation --

MR. KONOWE: I'm going to object to the use of the word by the witness of sweetheart.

There is no basis in fact for a repetition of the same word.

The witness has never described where he had first heard the word, or where he came to use the word, or who told him about it.

JUDGE DYER: Well, I don't think it's necessary to refer to it at this point in that manner, all right?

The question was -- what was said about the status --

Q What was said about the status of Local 522.

Do you understand what I mean by that?

A No, I do not.

Q Its relationship to Scientific Pest Control.

A On how they would be taking care of Scientific Pest Control?

Q Well, was anything said about its relationship to Scientific Pest Control?

A Just that they were going to organize Scientific, and that was going to be our Union. The Union of Scientific.

Q Do you recall anything else that was said in that regard?

A No.

Q Was anything said about a contract?

A No, I don't believe so.

Q Did there come a time when you -- you were discharged ?

A Yes.

Q Do you remember when this was?

A October 31st.

Q On the day you were discharged, can you describe how it came about?

A The day that I was discharged, my car had broken down that morning, and Mr. Giordano had come over to where my car was at the time, because I called him, and he came over, picked up my chemicals, everything that I had that belonged to Scientific in my car, took them back to the office, and he said, if you have a car tomorrow, you can work.

It was impossible for me to get a car by the following day.

The day after that, however, I did have a car, I asked Mr. Giordano may I return to work, and he said, no.

Q With respect to an automobile, personal automobile used by an employee, do you have any knowledge with respect to whether anybody had an automobile breakdown at any time prior to your breakdown?

A Yes.

Q Do you remember whose car broke down?

A It was Bill Raupp's Volkeswagon had broken down.

Q What would the company do --

Do you remember when this was?

A No. That date, I do not know.

Q Approximately?

A I really couldn't even give you an approximation on it.

Q Did Bill Raupp continue working for the company after his car broke down?

A Yes, he was issued a company truck.

Q Were you offered a company truck?

A At one time, I was.

Q When your car broke down this lat time?

A Yes.

Q You were offered a company truck?

A No, no, before the last --

Q As of the time around when you were discharged, were you offered a company truck?

A No.

Q Did you ask for one?

A No, I did not.

MR. EISENBERG: Nothing further.

JUDGE DYER: All right.

Mr. Kimmell?

MR. KIMMELL: Can we have his Affidavit, please? Thank you.

JUDGE DYER: We'll take a short break while the Affidavit is read.

(Whereupon, there was a short recess taken in the hearing.)

JUDGE DYER: Back on the record.

CROSS EXAMINATION

Q (By Mr. Kimmell) Now, Mr. Clifford, did you pass out any cards for Local 155?

A No, I did not.

Q Outside of talking to Billy Raupp about the Union, did you talk to any of the employees about the Union?

A Yes, I did.

Q Who did you talk to?

A Dennis Balz, Mark Minter, --

Dennis Balz, Mark Minter, Mike Passantino, Tony Nuzzi, Pat Tierney, I think that's his last name, Tierney, and that's about it.

Q Now, at this meeting where Mr. Casalino explained the Union benefits under 522 to the men, when did that meeting take place?

A As I said before, I don't remember the date of that meeting.

Q Was it about a week or a week and a half after September 9th?

A I would say, about a week and a half, yes.

Q So, that would make it about the 16th or the 17th?

A Fifteenth or 16th, right.

Q Yes.

And at this meeting, did Mr. Casalino have any piece of paper in front of him like this that he was reading from?

A He had a piece of paper.

Q Did he tell the men that the new contract had been negotiated with 522, and that you would get more pay, and more holidays, and a few other things?

A He said that --

Nothing about a new contract had been negotiated, because we never really, originally had a contract.

Q Pardon?

Don't you know as a fact that 522 and Scientific signed a contract on September 13th?

A Yes.

Q Okay.

Did you --

Did Mr. Casalino explain at this meeting, the new benefits you would get under this contract?

A Yes, he did.

Q What was it, additional pay?

A Yes.

Q How much more pay?

A It only averaged out to anothe 10, 15 dollars.

Q Ten or 15 dollars a week?

A Yes.

Q For each man?

A Yes.

Q I see.

Only that?

A Yes.

Q How about holidays, any more holidays?

A Yes.

We got, I think, maybe one or two more holidays that we, at the time, did not have.

Q Right.

And did Mr. Casalino explain anything about the hospitalization benefits that you would get?

A Yes, he did.

Q Had you received that before?

A No.

Q Any other benefits that he explained that you were going to get under the new contract?

A No.

Q All right.

Now, when did you say you came to work for this company?

A In January of '74.

Q Are you sure about that?

You're sure it wasn't March?

Exactly, March 19th?

A Very possible.

I'm not that good with dates.

Q Yes.

If I told you that your payroll record shows that you came to work in March, during the week of March 19th, would you say that's right?

A Yes, I would.

Q Now, when you came to work, what did Mr. -- did Mr. Giordano explain to you that in order to work on this job, you needed your own vehicle?

A Yes.

Q Did you have a vehicle at that point?

A Yes, I did.

Q What kind of car was it?

A A 1967 Chevy Impala.

Q Okay.

Now, did there come a time when your car broke down?

A Yes.

Q When was that?

A I don't know the date.

Q How long after you started to work?

A Approximately a month.

A month and a half.

Q Now, did the first time that your car broke down, was that during the week of April 9th?

A Yes.

Q How many days -- How many days was your car out of service that week?

A I believe, one day for that --

Q Did you get it repaired?

A Yes, I did.

Q Do you know --

Were you not able to work that day?

A I was working when my car broke down.

Q But the day that your car was out of service, were you not able to work?

You needed a car to work, didn't you?

A Yes.

Q Now, was the next time that your car broke down during the week of April 23rd?

A I'm not sure about that.

Q You're not sure about it.

If I told you that the record shows that it broke down for one day during the week of April 23rd, would you agree?

A It's possible.

Q How long was it down that week, do you know?

A I don't recall it being down.

Q Okay.

When was the next time your car broke down?

A I --

Q Was it during the week of May 21st?

A I don't know.

Q You don't know.

Was it down for one and a half days during the week of May 21st?

A Yes, there was one time it was down for a day and a half.

Q Right.

Is the next time your car broke down, the following week of May 28th?

A I don't believe so.

Q You don't think so.

How about the week of June 11th, did your car break down for another day during that week?

A No.

Q You don't know?

JUDGE DYER: Excuse me, you're going to have to say yes or no.

A No.

Q Now, did there come a time in the week of August 6th, that your car broke down the entire week?

A For an entire week?

Q An entire week, it was out for five days during the week of August 6th?

A Yes. That is true.

Q Okay.

Now, at that point, did the company tell you, look, Clifford, get your car fixed because you can't work here unless your car is not working, because you have to be out there every single day?

Did they tell you that?

A I believe, at that time, I had a company van at the time.

Q Okay.

Isn't it after your car broke down for a week, that Mr. Giordano said, get your car fixed, and in the meantime, I'll give you a company truck?

A Yes.

Q Did he give you the company truck to use?

A Yes, he did.

Q How long did you use the truck?

A I had the truck for about a month.

Q Right.

And did there come a time when the truck broke down and had to be taken in for repairs?

A No.

Q No?

A No.

Q Did Mr. Giordano say, you can't use the truck any more because it had to have repairs and go in for repairs?

A Yes, he did.

Q Did he tell you that it's time for you to now to come back with an automobile as you originally agreed to have when you worked this job?

Did he tell you that at that time?

A Excuse me, is this after the truck was taken?

Q Right.

When the truck broke down and he had to put it in for repairs.

A The truck did not break down.

I was using the truck.

The truck was in operating order.

Q Did he say it had to go in for repairs?

A Yes, he said it did.

Q At that point, when he said the truck had to go in for repairs, did he say, you have to get yourself a car to work this job?

A Yes, he did.

Q Didyou get yourself a car?

A I had the same car.

Q The same Chevrolet Impala?

A Yes.

Q The one that kept breaking down.

How many miles did that car have?

I --

Q Do you know?

A At that time?

Q Yes.

A About 90,000.

Q About 90,000, okay.

Now, the day after the truck was taken away from you and put in for repairs, did your car then, again, break down on September 10th?

A On September 10th was that?

Q Yes, September 10th.

A No, it did not.

Q Did your car break down anytime during September?

A Yes, it did.

Q What days?

A The 31st.

Excuse me, yes, September 31st.

Q How about September 24th, did it break down on September 24th, before the 31st?

A I don't believe so.

Q How many days was it out on the 31st?

A The 31st the car was no longer able to be run again.

Q It had seen it, it had had it?

A Yes, it had.

Q Did you go out and buy a new car?

A Excuse me?

Q Did you go out and buy a new car?

A No, I did not.

Q Did Mr. Giordano say to you, look, Clifford, you got to have a car for this job, and you've got to have a dependable car that must be in service every day, or when your car finally had it, did he say, you can't work for me any more, because you don't have a car?

A Yes, he did, and I had a car the following day.

Q Whose car was it?

A It was a rented car.

Q Now, when you were using the truck, were you supposed to use it for your personal use?

A No, I was not.

Q Do you remember a time that Mr. Giordano warned you not to use a truck for personal use, telling you that he had seen you using the truck at a beach, on a particular Sunday?

A At a beach, was that?

Q A beach.

A No, sir.

Q He never warned you?

A No.

Q Did he tell you, you're not supposed to go to the beach with your truck, with his truck, and with other people in it?

A No.

Q That never happened, you say?

A Never happened.

Q He never warned you?

A Never.

Q Did you ever use the truck on a Sunday?

A Yes, I did.

Q Weren't you warned not to use a company vehicle on a Sunday?

A After that day, when Mr. Giordano, I saw

Mr. Giordano the following day, yes, he did tell me I was not allowed to use it, and from that point on, I did not.

Q You saw him the following day.

Is this the following day after you took it to the beach?

A That truck, when I had it, never went to the beach.

Q Where did he see you using it on a Sunday?

A I had gone from my house, not even a quarter of a mile down to a deli, and right back to my house.

Q Was that the only time you used the truck personal?

A Yes.

Q During the month that you had the truck, was your car in service?

A No, it was not.

Q What were you using on Sundays?

A My girlfriend's car.

Q Does your girlfriend live with you?

A No, she does not.

Q Does she live near you?

A Whenever we went out, she picked me up.

MR. EISENBERG: Objection.

JUDGE DYER: I think your objection came

about one question too late.

MR. EISENBERG: Yes.

JUDGE DYER: All right.

Q (By Mr. Kimmell) Now, Mr. Clifford, as part of your route, did you handle the Suffolk County Department of Health?

A What was the address on that?
Is that Farmingville?

Q 15 Horse Block Place, Farmingville.

A Yes, I did.

Q How often were you supposed to be there?

A I believe that place was services once a week.

Q This was part of your regular duties?

A Once a month, I'm sorry.

Q Was this part of your regular duties?

A Yes, it was.

Q When you --
In the course of your duties, when you went to an account, and performed your service, did you have the customer sign a sheet attesting to the fact that you'd been there?

A Yes.

Q Was this part of the regular job?

A Yes.

Q The regular duties.

Now, do you recall being there in -- on September 26th to service that account?

That's September 26th, 1974.

A It's possible.

Yes, yes.

Q Did you get the customer to sign the sheet?

A I think September 26th, that the account was not able to be done, because there were people, nurses and babies in the building already.

Q So, did you get the customer to sign the sheet?

A No, I did not.

Q He didn't sign the sheet?

Is this the kind of sheet, this yellow sheet that you get them to sign?

A Yes.

Q You say, the customer didn't sign the sheet?

A If I did not do the work, I don't believe he would sign the sheet.

Q When you turned this yellow sheet back to the office, there was no signature on it?

A No.

I didn't turn the yellow slip in.

Q That yellow slip, doesn't that get turned in?

A Right.

But if I didn't do the account, I wouldn't have made one of them out.

Q You're saying, you didn't --

Let me show you this yellow sheet.

Is that your writing at the top of it?

A Yes.

Q You wrote this out?

The writing on it?

A Yes, I did.

Q What does it say, will you read it?

A I can't read that first word.

JUDGE DYER: I'm sorry, speak up a little bit, please.

THE WITNESS: I can't see the first word on it.

Q Does it say, "Call office --"

A "Call office for another day."

Q Then you turned this yellow sheet back to the company, didn't you?

A Yes.

Q And at the time you turned it back, there was, you say there was no signature on it?

A No.

Q The customer's signature was not on it?

A Right.

Q Now, when you --

Is there a procedure of a route card that is given to the serviceman to go out on each job?

A Yes.

Q And in the middle is there a heading called, condition?

A Yes.

Q And does the serviceman write what the condition of the job is?

A Yes, he does.

Q Now, I'll tell you to look at this route card.

Is this the route card we're talking about in Farmingville at the Suffolk County Department of Health?

A Yes.

Q And is there a note, is there --

Does it show a monthly visit, as you said?

A Yes, it does.

Q And is that your handwriting where you say, next month, or good, or good, or good, good?

A Yes.

Q Is there a notation next to September 26th?

A Yes, there is.

Q Is that your initials there?

J. C.

A T. C.

Q T. C.

Is that your initials showing in April, May, June, July, August and September?

Isn't that your initials?

A Yes.

Q Does the word under condition say, "Good" there?

A Yes.

Q Is that your handwriting, "Good?"

A No, it's not.

Q It's not your handwriting?

A No.

Q Is that your handwriting right above it, for August?

A Yes, it is.

Q Is that your handwriting in July?

A Yes, it is.

Q Now, I'm going to ask you again, you're saying that the notation for September, "Good," is not in the same handwriting as August and July?

Do you want to take another look?

A No, it's not.

Q Okay.

It looks exactly the same to me but, then again, I'm not a handwriting expert.

A I'm not either.

Q Mr. Clifford, what time were you supposed to come to work on this job?

A It depended.

If you had an early stop in the morning, you could go right to your early stop.

Q Right.

A Many times, I did that.

Q Normally, if you didn't have an early stop, weren't you supposed to be at work at eight o'clock?

A Yes, sir.

Q Mr. Giordano ever complain to you about the fact that on many, many mornings, you came in late?

A There were times --

Q Forty-five minutes late?

A There were times I came in late, yes.

Q How many times would you say?

A A dozen.

Q How many?

A A dozen.

Q Twelve times.

Did he complain to you each time?

A Not each time.

Q You say, only a dozen?

A Approximately, a dozen.

Q Approximately.

Do you want to look at your timecards and tell me how many times you came in after eight o'clock, during the period that you worked there?

A I --

Q Well, I think this --

Let me withdraw that question, Mr. Clifford.

I think it will be too time consuming to do it this way.

During the week of September 10th, do you want to look at your timecard?

Will you tell the Examiner what time you reported every one of those days?

A 9:45, 8:13, 9:19, 8:43, 8:39.

Q Is it a fact you were late every single day that week?

A Yes.

Q Look at the last day you worked.

What time did you come in?

A 8:28.

Q So, you were 28 minutes late that day.

Let's look at the week before you were let go.

What times did you come in?

A 8:12, 8:14, 9:10, 8:05, 7:58.

Q So, with the exception of one day, you were late every single day the week before, is that correct?

A Going on the assumption that we said eight o'clock, yes.

Q Let's look at the week, at random, August 27th.

What time did you come to work that week?

A 9:20, 8:40, 9:20, 7:49.

Q You only worked four days that week.

Is that one of the weeks that your car was broken down again?

A It might have been.

Q Wasn't this the time that you had the company truck?

A What's the date on that card?

Q August 27th.

A Yes, I did have the company truck.

Q Nevertheless, you only worked four days.

Do you know why?

A I don't recall why.

Q Did you have something else to do?

A I don't recall why.

Q Look at the week ending September 3rd.

What times did you come in during that week?

A Eight o'clock, 9:02, 7:30.

Q You only worked three days during t[illegible].

Do you know what happened the other two days?

A Excuse me, wait a second.

JUDGE DYER: What week was that?

MR. KIMMELL: September 3rd.

THE WITNESS: 9/3.

JUDGE DYER: You started on the assumption that September 2nd is a holiday, and September 3rd was a Tuesday.

MR. KIMMELL: That's a fact, okay.

JUDGE DYER: That was Labor Day.

Q (By Mr. Kimmell) Okay.

So, you worked three days that week?

A On that last one right there, why is the 6:19 crossed out?

Evidently, I had to be there to punch it, because that's the punch of the machine.

Q 6:19 is the end of the day, and you started at 7:30 that day.

Look. Your punch-in time is below the punch-out time.

A Right.

Q Okay.

You worked three days that week, and do you have any explanation what happened to the fourth day, since one of the -- since the fifth day was a holiday, why you didn't work that week?

A That was the week of 9/3, I believe?

Q Yes.

A No, sir, I don't remember.

Q Don't remember.

MR. EISENBERG: One moment.

For my clarification, do you mean the week beginning 9/3 or the week ending --

MR. KIMMELL: The week ending.

That would include Labor Day, as you said.

JUDGE DYER: Then the week ends on a Tuesday?

MR. KIMMELL: That's right.

That's what I think came out in the evidence before.

JUDGE DYER: All right.

Q (By Mr. Kimmell) How many times did Mr. Giordano complain to you about your lateness and your absenteeism?

A Once or twice.

Q Only once or twice?

JUDGE DYER: Excuse me, you're nodding your head.

He can't take down a nod of the head.

You're going to have to say yes or no.

THE WITNESS: I'm sorry.

Q Only once or twice?

A Yes.

Q Do you remember him telling you if you didn't shape up, and stop this absenteeism, and lateness, that you're going to be fired?

A Yes.

Q When did he say that to you?

A I don't remember the date.

Q Well, was it before September?

A I believe it was, like, two months before September.

Q Sometime in July?

A Right.

Q That's the only time he complained to you about your absenteeism and your --

A No.

Q -- and your lateness?

A No.

Every now and then in the morning, I would get a comment, you know, of being late.

Q What would he say?

A He would just let me know that he knew I was late.

Q That's all?

Didn't he say, look, you're supposed to be here at eight o'clock, on time?

Didn't he ever tell you that?

A I don't ever recall him saying that.

Q In other words, he didn't really care whether you came in late?

A He did care.

He just said, you're late, or late again, or something like that.

MR. KIMMELL: That's all the questions I have.

JUDGE DYER: Mr. Konowe?

Q (By Mr. Konowe) Mr. Clifford, getting back to the meeting at which Mr. Sam Casalino addressed the employees in, is it the basement office?

A Yes, it was.

Q Can you tell us how large a room that was?

A Mr. Giordano's office?

Q Yes.

A It's not a very large room.

It's -- It's hard to explain, really. It's an "L" shaped.

Q Is it smaller than the hearing room you're in now?

A Yes, it is.

Q Would you say the room was about twenty feet long?

A Yes.

Q Now, how far were you from Mr. Casalino while he was addressint the employees?

A Three, four feet.

Q All right.

MR. KONOWE: Can I have General Counsel's Exhibit 5?

JUDGE DYER: Are you sure you want that? That's the agreement of October 16th.

MR. KONOWE: September 16th.

JUDGE DYER: That would be General Counsel 6.

MR. EISENBERG: Is that right?

JUDGE DYER: That's what you announced -- Off the record.

(Discussion off the record.)

JUDGE DYER: Back on the record.

I had some questions as to the dates of the agreements.

General Counsel's agreement --

General Counsel's 5 is a memorandum agreement dated September 16th.

General Counsel's 6 is an agreement, dated September 13th.

Right?

In case there is any confusion in the record, it's now straight.

Q (By Mr. Konowe) Mr. Clifford, you were about three or four feet away from Mr. Casalino when he addressed the employees, is that correct?

A Yes.

Q I show you general Counsel's Exhibit 5, and ask you whether you recognize what that paper purports to be?

A It's a recognition of a union shop.

Q Well, let me put it this way.

Have you seen this paper?

A No, I have not.

Q Did you see Mr. Casalino reading clauses from a typewritten paper?

A Yes.

Q Now, can you tell us how long he went through the typewritten papers, explaining the benefits?

A About a half hour.

Q Did you see him read the clauses to the employees?

A He had a piece of paper and the face of it, the white side, was to my face.

I did not see what he was reading.

Q All right.

As he read, you were three to four feet away?

A Yes.

Q Were you observing him?

A No, I was not.

I didn't want anything to do with it.

I wasn't really even listening to Mr. Casalino.

Q You weren't listening?

A No, I was not.

Q And he was talking about a half an hour, is that so?

A Approximately a half hour, yes.

Q Did you see him turn over the sheets as he was reading things?

A He was turning pages.

Q So that, there were several pages, were there not?

A I do not know how many pages.

Q Now, there came a time when he reached a discussion on hospitalization, didn't there?

A Yes.

Q Did employees ask questions about hopsitalization?

A Not that I recall.

Q Did anyone ask about whether they'd have to contribute or not contribute?

A I think Mr. Casalino had explained that we -- you know --

No, we already knew it.

I think he had said something about that.

Q You said that you weren't listening?

A Well, I didn't hear anybody really asking him any questions.

Q To the best of your recollection, you knew what the hospitalization benefits were?

A No, I did not.

Q You said you already knew?

A No, I did not say I knew what the benefits were.

I said, I knew he had read benefits.

Q He had read benefits?

A Right.

Q And you said --

And you were watching him while he was reading it, were you not?

A I glanced up now and then, yes.

Q Well, were there other employees in the room?

A Yes, there were.

Q In point of fact, weren't all the employees in the room?

A Yes, they were.

Q Would you tell us to the best of your recollection, how many employees were in that room?

A You had all your servicemen.

Q How many would that have been?

A All right.

Well, Bill Raupp, myself, Dennis Balz, Mark Minter, Pat Tierney, Mike Passantino, Tony Nuzzi, Jimmy Guenther, Jimmy Melville, Mr. Giordano, and Henry Knox.

Q How many?

A Eleven.

And also, I'm sorry, Mr. -- I don't remember your last name --

JUDGE DYER: Casalino.

THE WITNESS: Casalino.

Q Was James Melville in the room?

JUDGE DYER: The witness already gave his name.

Q Ronald Page?

A Yes, he was.

Q John Michalicka?

A I don't recall if John Michalicka was there.

Q Paul Sorci?

A I don't believe he was there, either.

Q Joseph Monte?

A Joe Monte?

Q Yes.

A Was that one of the new guys?

You know, if it was a new guy, I wouldn't know his name.

Q Harold Casses?

A Yes, he was there.

Q Did Mr. Casalino, at that meeting, ask those employees who had not yet signed cards for Local 522, to raise their hand?

A Yes.

Q How many raised their hands?

A Approximately, five.

Q Five?

A Yes.

Q Which five?

A Myself, Bill Raupp, Dennis Balz, Mark Minter and Anthony Nuzzi.

And Little Sal DeMeo. He was another one that was also there.

MR. KONOWE: I have no further questions.

JUDGE DYER: Any redirect?

MR. EISENBERG: No redirect.

JUDGE DYER: All right.

MR. KIMMELL: May I --

JUDGE DYER: Do you have a question?

MR. KIMMELL: Not of this witness.

JUDGE DYER: Thank you.

(Whereupon, this witness was excused.)

MR. KIMMELL: There was one question I forgot to ask the previous witness, Mr. Raupp.

Could he possibly be recalled?

I know it's out of order.

MR. EISENBERG: Along the lines of cross examination?

MR. KIMMELL: Yes.

Just on one point that he testified to.

MR. EISENBERG: No objection.

JUDGE DYER: Mr. Raupp, would you come back to the stand, please?

You've been previously sworn and you're still under oath.

Whereupon,

WILLIAM RAUPP

previously called as a witness, having been duly sworn, was examined and testified as follows:

FURTHER CROSS EXAMINATION

Q (By Mr. Kimmell) Mr. Raupp, I believe you stated that at one point, Mr. Giordano said that no more would you have a one hour lunch hour, is that right?

A That's affirmative.

Q He said, from now on, it's going to be a half hour?

A Right.

Q When was that that Mr. Giordano said this?

A Roughly, about September 10th.

Q Right after the Union business?

A Right after he found out about the Union, right.

Q You're certain that you had an hour lunch at that time?

A As far as I remember, yes.

Q Had you ever seen --

Well, let me show you this document.

Have you ever seen this before?

A Yes, I have.

Q And would you tell us what it is?

A It's a document dated August 13th, to all employees, as far as the Labor Department law.

Q Yes.

And does it say on there that the work day is from 8:00 to 5:00, with a one-half hour for lunch?

Does it say that on there?

A Yes, it does.

Q Now, is there a group of signatures on this?

A Yes, there are.

Q And the second signature down, it says, Bill R.

Is that you?

A Yes.

Q That's your signature?

A Yes.

Q And I take it, you signed this after you saw this?

A I believe so, yes.

Q Yes.

MR. KIMMELL: May we mark this, please, as Respondent Company's Exhibit No. 4?

(Respondent Company's Exhibit 4 was received and marked for identification, of this date.)

JUDGE DYER: You're offering that in evidence at this point?

MR. KIMMELL: I will, as soon as Counsel has looked at it.

JUDGE DYER: All right.

MR. KIMMELL: We're offering it in evidence.

JUDGE DYER: Any objection?

MR. EISENBERG: No objection.

JUDGE DYER: It's received.

(Whereupon, the above referred to was received and marked Respondent Company's Exhibit 4 in evidence.)

MR. KIMMELL: That's all the questions I have, Your Honor.

JUDGE DYER: All right.

Thank you.

(Whereupon, this witness was excused.)

MR. EISENBERG: Your Honor, before I proceed, would it be possible for me, maybe this is appropriate to be done off the record, to get a clarification of your ruling on sequestration, as it applied to Mr. Casalino?

JUDGE DYER: I think we can stay on the record, because, as I stated originally, each of the parties is entitled to have one person here in the room, and as far as I can see, Mr. Casalino has been the one person here for Respondent.

The other person who was here yesterday, and this was a question raised by Mr. Konowe, was only here to deliver some cards, and since there was a stipulation, he was a spectator, and this is the one person.

MR. EISENBERG: In that case, may I apply to Your Honor for a short recess of no more than five minutes?

JUDGE DYER: All right, we'll take a short recess.

(Whereupon, there was a short recess taken in the hearing.)

JUDGE DYER: On the record.

MR. EISENBERG: Sam Casalino, please.

Whereupon,

SAM CASALINO

called as a witness, was duly sworn and testified as follows:

JUDGE DYER: Be seated.

Give us your full name and address.

THE WITNESS: Sam John Casalino, C-A-S-A-L-I-N-O.

JUDGE DYER: C-A-S --

THE WITNESS: -- A-L-I-N-O.

JUDGE DYER: Thank you.

THE WITNESS: 1357 40th Street, Brooklyn, New York.

DIRECT EXAMINATION

Q (By Mr. Eisenberg) Mr. Casalino, did you, at any time, or do you now --

Withdrawn.

Did you, at any timehave a connection with the Teamsters Union?

A I did.

Q And when was this?

A I've been employed with the Teamsters up until January 10th, 1975.

Q In what capacity were you employed?

A I was a Business Agent and also in the capacity of Vice-President of the Local.

Q Was your employer the International, or a Local?

A I was employed by Local 522.

Q Do you have any relationship at all with Local 522, at this time?

A At this point, no.

Q Do you have any position or relationship with the International Brotherhood of Teamsters, at this time?

A No.

Q Do you have any relationship or position with any other Local of the International Brotherhood of Teamsters, et cetera, at this time?

A No.

Q Did you ever come in contact in any way with employees of Scientific Pest Control Corporation?

A I did.

Q In what way?

A When you say, employees --

Q In what --

A Employee or --

Q Employee or employees.

A Employee?

Q Or employees.

Did you have any contact with them in any way?

A I received a phone call from James Melville on September 9th, I happened to be in my office, and he said that he would like to have a Union in the shop, and I asked him if there was a Union there, and he said, no.

I said, well, in this case, I can do business, organize. And I told him what the procedures were, that I would have to give him authorization cards, and I would have to have them signed by the majority of the shop.

And he said, okay; and I said, well, where can I meet you. He said, well, if you can come down here, and of course it's way up in Smithtown and I had to get directions from him.

I went up there the following day.

Q What date was that?

A The 10th, with a batch of cards, met him outside of the plant, the store, Scientific, and --

Q Did you tell him anything when you gave him the cards?

A I gave him the cards, and I explained the procedure of organizational procedures, and what must be done in order to have the shop organized, and I told him that he would have to get all the cards, the majority of the cards signed.

When he did, notify me and I would pick them up.

Q Did there come a time when he notified you about this?

A Yes, he did.

Q When was this?

A This is, I think it was probably the 11th, I got a message to go down to Scientific, and I went down September -- September 12th, in the A. M., before starting time.

Q On September the 12th, Mr. Casalino, did you have any contact or conversation at all with Mr. Salvatore Giordano?

A No. Wait, excuse me.

My first meeting was with James Melville and when I saw I had the majority of cards I proceeded into the office of Scientific and I approached Sal Giordano with my business card.

Q What did you say?

Did you say anything to Mr. Giordano?

A I sure did.

Q Did he say anything to you at this time?

A I had the cards in my hand --

Q Excuse me.

Did he say anything to you at this time?

A Did he say anything to me?

Q Yes, when you --

A He listened to me.

I told him I was from the Union, I have authorization -- signed cards by his workers, choosing our Local, for 522 to be the collective bargaining agent for them, and he says, you have the cards?

I showed him the cards.

He looked at them, and I says, well, the next step is that you sign a stipulation which defines itself as to sit down and negotiate in good faith with Local 522.

Q Was such a stipulation signed on this day?

A Well, then we proceeded down to the private office in the basement.

James Melville, myself and Sal Giordano.

He looked over the stipulation and certain questions he asked about it, and I told him that it's a stipulation, it's not a contract, it's just to show that we have the initial, or that is that we have the signed document to show that we are going to be the collective bargaining union for the employees.

Q Did there come a time after that when Mr.

Giordano signed a collective bargaining agreement between Scientific Pest Control and Local 522?

A When you say, collective bargaining agreement, are you referring to a contract, are you referring to a memorandum?

You'll have to be a little more explicit on that.

Q I'll rephrase the question.

A All right.

Q Was anything else signed after this first recognition stipulation, I believe it is?

A A stipulation.

Q The stipulation.

A After the stipulation was signed, he also signed a memorandum of agreement.

Q Okay.

With respect to the memorandum of agreement, when was that signed?

A The memorandum of agreement was signed the 13th of September.

Q I see.

Was that document handwritten or typewritten?

A Handwritten.

Q Was any other document signed at any time after that?

A After that?

Q Yes.

A Yes.

There was a completed document which is called a Union Contract by and between the Employer and the Union.

Q When was that signed by Mr. Giordano and the Union?

A It was signed the 16th, to be dated effective date the 13th.

Q I see.

After that contract was signed --

Withdrawn.

What was the memorandum, the handwritten memorandum?

What was that?

A Well, if I under your question correctly, if it's the way you're putting it, a memorandum of agreement is a temporary agreement to bind both parties until a legal document, or typewritten document, which is called a Contract, is typewritten, and at the time, there was nobody there to type a contract, because the meeting was in the evening, and the memorandum of agreement binds both parties, that's the reason why it was handwritten, in my handwriting.

Q Did you ever meet with employees of Scientific Pest Control after the September 16th contract was signed?

A I did.

Q Do you remember about how long after it was that this contract was signed?

A A couple of days after.

Maybe the 18th of September.

Q Where did you meet with the employees?

A Scientific Pest Control, I requested a meeting to Mr. Giordano for that morning that I would be there to have all the workers in his employ to be present, and the meeting was held in the premises of Scientific Pest Control, private office of Sal Giordano.

MR. EISENBERG: Nothing further.

JUDGE DYER: All right.

Mr. Kimmel?

MR. KIMMELL: I have no questions.

MR. KONOWE: I have no questions.

JUDGE DYER: Thank you.

(Whereupon, this witness was excused.)

JUDGE DYER: General Counsel?

MR. EISENBERG: That concludes General Counsel's case.

JUDGE DYER: Do you rest at this point?

MR. EISENBERG: I rest at this point.

JUDGE DYER: I take it that there will be no presentation from the Union, is that correct?

I'm talking about Local 155.

MR. LOMBARDI: Yes.

JUDGE DYER: Mr. Kimmell?

MR. KIMMELL: I would call as the first witness, Mr. Tierney, outside.

Whereupon,

PATRICK TIERNEY

called as a witness, was duly sworn and testified as follows:

JUDGE DYER: Be seated, please.

Give us your full name and address.

THE WITNESS: Patrick Albert Tierney.

38 Woodmere Place, Selden.

JUDGE DYER: Thank you.

DIRECT EXAMINATION

Q (By Mr. Kimmell) Mr. Tierney, did you use to work for Scientific Pest Control?

A Yes.

Q Were you a route salesman?

A No.

A tree sprayer.

Q A tree sprayer, okay.

I want to show you Union authorization card that's marked, Union -- General Counsel's Exhibit 11.

Have you ever seen that card before?

A Yes, I have.

Q Will you tell us where you saw that?

A I saw it on a Sunday, around September.

Q Is that September 8th?

A Approximately.

A little while after Labor Day.

Q Was this at the Village Diner in Smithtown?

A Right.

Q Was that gentleman, Mr. Lombardi, there?

A Right.

Q Were there some other employees of Scientific Pest there?

A Yes, there were.

Q At this meeting, did you see that card?

A Yes, I did.

Q Would you tell us in your own words what happened with respect to that card?

A Well, the card was passed to me, filled out with my address and everything on it.

I handed the card back.

Q You say, the card was passed to you with your name on it?

A Right.

Q Is that in your handwriting?

A No.

Q It had this address?

A Right.

Q Did it have this third line, Scientific Pest Control?

A Right.

Q And did it have a date on it when it was given to you?

A I don't remember the date.

Q But the first three insertions were on it?

A Right.

Q That's not your handwriting?

A No.

Q Okay.

What happened then?

A I passed the card back.

Q Who gave you the card?

A Mr. --

The man over there.

Q Is that the man in brown there?

A Right.

I only know him by Ernie.

Q You mean, the gentleman sitting there in the brown sport jacket?

A Right.

MR. KIMMELL: Can the record show that's Mr. Lombardi?

THE WITNESS: Right.

Q What did Mr. Lombardi say?

A He asked me to sign the card.

Q What did you say?

A I passed it back.

I said, no.

I said, I didn't want anything to do with it.

Q Now, there's a signature on there.

Will you look at that?

Is that your signature?

A It's close, but it's not mine.

Q Are you sure it's not your signature?

A I'm sure it's not my signature.

Q Did you ever sign that card?

A No.

Q Any doubt in your mind, Mr. Tierney?

A No doubt.

JUDGE DYER: Anything further, Mr. Kimmell?

MR. KIMMELL: Just one second.

Can I have a short, about a minute recess to confer with my client?

JUDGE DYER: All right.

(Whereupon, there was a short recess taken in the hearing.)

JUDGE DYER: On the record.

MR. KIMMELL: I have no further questions.

JUDGE DYER: All right.

Mr. Konowe, do you have any questions?

MR. KONOWE: I have none.

JUDGE DYER: All right.

General Counsel?

CROSS EXAMINATION

Q (By Mr. Eisenberg) Mr. Tierney, how did you happen to be at the meeting on Sunday?

A I had a phone call.

Q Who called you?

A I don't remember which part of the crew it was.

Q What did they tell you?

A They said, there's going to be a meeting at the Village Diner in Smithtown.

Q Did they tell you what the meeting was going to be about?

A Yes.

Q What was it going to be about?

A A Union meeting.

Q You went to the meeting, right?

A Right.

JUDGE DYER: There will be no smoking in the hearing room while the hearing is in order.

Q (By Mr. Eisenberg) Why did you go to the meeting?

A To see what it was about, you know.

Interested.

Q Did you ever hear anything about a Union before this time?

A No.

I had a little talk about it, but that's about it.

Q Somebody talked to you about it?

A I just heard it around the shop.

Q You don't remember who?

A No.

I didn't know too many people there.

Q Did you ever indicate to anyone that you were interested in a Union?

A No.

Matter of fact, I told people I wasn't interested in it.

Q If you weren't --

A I didn't want to hear nothing about it.
That's what I said.

Q If you weren't interested, why the heck did you go, if you know the meeting was for a Union?

A It was a free dinner, information being passed around.

Q Tell me something, did you ever see this card with your signature?

A No, I haven't.

Q This bottom signature on it?

A Which one is that, mine?

Q Right here, yes.

A No.

Q Never did?

A No.
It was passed to me without a signature on it, because I wouldn't sign it.

Q Did there come a time when someone asked you if you signed a card for Local 155?

A No.

Q Never did?

A Except today in Court.

Q Never any time before that?

A No.

Q No?

A No.

Q You never got a call from anybody, or -- or anybody asking you if you signed a Local 155 card?

A No.

Q You just showed up mysteriously here today?

A What?

Q You just showed up here today to tell us about the card?

A I reported back to the job and asked for another job.

Q When was this?

A Someone asked if I signed a card and I told them I did not sign a card.

Q When did you report back for another job?

A About a week ago.

I'm just down from --

Q Did anybody offer you another job?

A No.

Q You just went down by yourself?

A Just went down by myself.

Q Did you do this at any time before this occasion?

A What?

I was out of the state for a year. I came back.

Q I see.

A I was looking for a job.

Q I see.

Did you get a job?

A No.

Q You're not working for Scientific Pest Control at all?

A No.

It's slow.

Q Did you speak to anybody about your testimony before you came here today?

A No.

Q Nobody?

A No.

Q When you reported for the job, who did you speak to?

A First I asked the secretary if Mr. Giordano was there. He was not.

So, I came back the next day, and then I talked to Mr. Giordano.

Q Okay.

What did Mr. Giordano say to you?

A He said, right now, it's very slow.

He said, maybe I can -- maybe if things pick up, maybe. But he says, there's too many people being laid off, and, you know, he couldn't hold anybody on.

Q Did he ask you anything about the card?

A He asked me about, something about, did I sign any card.

And I said, no.

Q Did you stay for the whole Sunday meeting?

A Well, for the whole meeting, yes, I guess I did.

Q When, during the meeting, were you presented with the card?

A When?

Q Yes.

A About in the middle of it.

Q Did anybody ask you to leave after you refused to sign it?

A No.

Besides, I had a ride there.

Q You got a ride there with who?

A I think his name was Tony.

Q Is he in the Courtroom at this time?

A No, he's not.

Q Was he an employee of Scientific Pest Control?

A Was he?

Q Yes.

A Yes.

I think --

Yes.

Q It wasn't Tommy Clifford?

A Who's Tommy Clifford?

Q The gentleman sitting right there.

A I know that man by his first name.

Q You don't know him to be a Tommy?

A I don't remember the names.

Q Withdrawn.

MR. KIMMELL: I think he said, Tony.

THE WITNESS: Tony.

Q Is that Tony Nuzzi?

A Yes.

Q In the car, did you talk to Tony Nuzzi at all about the meeting?

A I told him that -- to me, I gave him the impression I was not really interested.

I said, to me, it would be a bunch of baloney, to be, I told him, you know, I'm just going down for the ride, you know, --

Q But you still went to the meeting?

A Yes.

Q Did anybody try to talk you into signing the card?

A No.

Q They just took it back and they --

A At the meeting, they tried to talk me into it, right.

Q Who tried to talk you into it?

A Almost everybody.

Q And you were adamant, right?

A Right.

Q You wouldn't sign anything?

A Absolutely not, no.

Q They discussed other things after that, didn't they?

After they asked you to sign the card, after you were given the card?

A Yes, they did.

Q They probably talked about how they were going to organize the shop?

A Talked about how they were going to organize the shop, what this man is going to get, what that man is going to get.

That's what threw me away from it, too many problems, too much baloney.

Q But you stayed at the meeting?

A Right.

Q Nobody expressed any objection to it?

A No.

Q How did you say you weren't interested in signing?

A How did I say I wasn't interested?

Q Yes.

A I just wans't interested.

Q That's all you said, I'm not interested?

A No, I'm not interested.

I didn't believe half of the stuff that was going on.

I'm a silent-type person. I just didn't get in with the group discussion, anyway.

Q Your testimony is that you didn't sign this card?

A That's my testimony.

Q Do you know who signed the card?

A No. Absolutely not.

Q I ask you again, did Mr. Giordano --

I didn't ask this.

I'll withdraw that.

Did Mr. Giordano, when you spoke to him about the card, can you remember precisely, exactly what he said to you?

A He asked me, did I sign any type of card. A Union card.

And I said, no, absolutely not.

Q Did he ask you --

Did he tell you why he was asking you this?

A No.

Q Did he say anything else to you at this last time you were talking about the card with him?

A Not that I remember.

Q Was it your testimony that this signature is pretty close to yours?

A Right.

Q Well, what's different about it?

Is there anything different about it?

A A lot of difference.

You know, it's just different.

Q We're not handwriting experts.

Did you drink some beer at that meeting?

A I think I had one.

Q Didn't have a drink before the meeting or anything, did you?

A No.

Yes, I think I had. Yes.

Q You did?

A A couple.

Q About how many?

A About two or three.

Q What kinds of drinks?

A Beer.

Q Beer?

A Yes.

Q You could hold it pretty good?

A I don't know.

Sometimes I can; sometimes I can't.

Depending on what kind of mood I'm in.

MR. EISENBERG: I have nothing further.

JUDGE DYER: Anything further, gentlemen?

MR. KIMMELL: Nothing further.

JUDGE DYER: Thank you.

(Whereupon, this witness was excused.)

Whereupon,

SALVATORE GIORDANO

called as a witness, having been previously sworn, was examined and testified as follows:

JUDGE DYER: You were sworn yesterday, you're still under oath.

DIRECT EXAMINATION

Q (By Mr. Kimmell) Mr. Giordano, will you tell us something about what you do in your company?

A We provide exterminating services in various types of establishments.

Food handling plants, restaurants, delis, where ever exterminating service is required.

Seventy-five percent of our work involves residential accounts, private homes.

Q Is there any seasonal variation of the business?

A Most assuredly, yes.

The prime time of the year would run anywhere from the middle of March until August, September, depending on the weather during the year.

Q You say, your prime time.

Can you explain that?

A This is the normal period of the season when there would be a great demand for our type of service.

Tree spraying, termites, and a general pest control.

Q Do you generally augment your work force during this period?

A Yes, we do.

Q Do you generally cut back your work force once this period is finished?

A Yes, every year.

Q Is this the pattern of all pesticide businesses?

A I would say so, yes.

Q In addition to your regular work force, Mr. Giordano, do you hire any other type of people to tide you over these busy periods?

A We have part-time people that we may employ on a daily basis. Weekly.

Whatever times they're available.

We have school, high school boys, college boys, for the season.

Especially during the tree spraying season, we would work from sunrise to beyond dark.

We'd have a shift in the middle of the afternoon, other men would come in and relieve the men that started at six o'clock in the morning.

Q Some of these so-called part-time people, are some of them people who have other full time jobs?

A Yes, they do.

Q Are any of them County employees?

A County employees, City employees, State employees, yes.

Q All right.

Do you know a man named Frank Baudo?

A Yes, I do.

Q Will you tell me first of all, is he -- does he have a full time job?

A He's a full time New York City Policeman.

Q Does he live in your area?

A Yes, he does.

Q Has he ever worked for you?

A He's worked off and on for me for the last five years.

Q And does he have a fixed schedule when he works with you?

A No.

His schedule rotates according to the type of position he's assigned to for that period.

Q Can you explain that?

A Well, he's an undercover detective.

Q On the New York City Police Force?

A New York City Police Department.

If he's assigned a certain shift, Vice Squad, New York City, it may run for a six month period during the daytime only.

Q In which case?

A Which time he's not available to work for me.

Q Because your work in only in the daytime, too?

A Normal eight to five day, primarily.

Q If his shift changes, what happens?

A He would call me and say, Sal, I'll be available so many days this month. If you need me, give me a call.

Q Does he generally know in advance what his shift is going to be for the next several months?

A Not several months.

It can vary.

He'll know for about a month at a time.

Q Okay.

When did he first start working for you on this basis?

A 1971.

Q And could you say about how many days or weeks he worked for you during the course of that year?

A Well, I would say, maybe ten, twelve, fifteen weeks during the entire year.

Q Now, did he work for you in '72?

A Yes, he did.

Approximately, the same.

Q How about '73?

A The same.

Q What happened in '74?

A '74, he was appointed to a special detail that was strictly days. It was a seven to three shift.

Q Incidentally, when Baudo worked for you, what did he do for you?

A He did specialty work.

Went back and checked previous termite conditions as there would be charges for this, as part of our contract and we'd inspect the house each year after the treatment.

Do route work, if a route man was sick.

If there was route work available.

Sell work, clean up work, specialty work.

Where I would not have a man available to spend a sufficient amount of time in an establishment, a normal route [illegible], Frank would go in and straighten the account out, put two, three hours in one account, get it back in condition, so the normal route man could continue his schedule.

Q So, the work he did was similar to the work of Raupp or Clifford or any of these men?

A No, they were more specialized.

Raupp and Clifford did one type of work, basically.

Mr. Baudo was much more diversified. He would do termite work.

Q In '74, he was assigned to a special seven to three detail?

A Yes.

Q In his police job?

A Yes.

Q Do you know when in '74 this occurred?

A No, I don't.

He couldn't work the early part of '74.

Q Okay.

Did there come a time in '74, that this assignment in the Police Department was ended for him?

A He called me in August, saying that he would be available sometime, and he'd get back to me and tell me when.

He started in September.

Q Do you recall when he started?

A The second week in September.

Approximately.

Q So, it was about the --

Did his name show up in the payroll of the week ending September 17th?

A Yes, I believe it did.

Q Do you know whether he started the beginning of that week?

A Approximately.

Q If we look at the calendar --

A The 17th would be a Tuesday.

It would be around the 10th.

Q He'd start around the 10th?

A The 11th.

Otherwise he would have been on a previous schedule.

Q He's not on the payroll that's been submitted here in evidence for the week ending the 10th, is that correct?

A I believe so.

Q Does he appear on your payroll for the week ending the 17th?

A Yes, he does.

Q Does it show forty hours?

A No.

Part-time basis.

Q I see.

A Normal routine, part-time.

I believe.

If you have the --

I don't have the payroll --

Q Has he worked since --

A Again, he's back to his normal routine, of when he's available, he calls me.

From September to date.

Q So, he's been working --

A This previous year, again, erratic, because of the economic conditions, I don't have that much available work for him. But he's back on the same basis again.

Q He's been available since about September 11th?

A There was a short period in January -- from

February to, I believe, June, he was not available again.

He had a special detail.

From that point, he was back on again.

Q Now, after --

In connection with the events in this case, did Local 155 file a Petition for an election with the New York State Labor Relations Board?

A Yes, they did.

MR. KIMMELL: Would Counsel for the General Counsel concede that such a Petition was filed and docketed by the New York State Labor Relations Board, as Case No. SE-48276?

MR. EISENBERG: Can we go off the record?

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

MR. KIMMELL: Mr. Examiner, can we stipulate that Local 155 filed an election petition, a representation petition with the New York State Labor Relations Board, which was docketed as Case No. SE-48276, seeking a unit of Scientific Pest employees, and that said Petition was subsequently withdrawn by Local 155?

JUDGE DYER: All right.

Do you so stipulate, gentlemen?

MR. EISENBERG: I so stipulate on behalf of General Counsel.

JUDGE DYER: I understand the attorney for Union Local 155 is not here.

Mr. Lombardi, in his stead, would you enter an appearance and do you want to make a statement, and stipulate to this?

MR. CARROLL: I wouldn't, without our attorney, Your Honor, because I don't know just what they're trying to get at, what the stipulation means to us.

JUDGE DYER: Let's go off the record and we'll find out.

Off the record.

(Discussion off the record.)

JUDGE DYER: Back on the record.

Mr. Mathers, who is the attorney for Local 155, is not present at the present time.

Mr. Carroll, would you like to enter an appearance at this time to represent the Local?

MR. CARROLL: I would.

JUDGE DYER: All right.

The record will note the appearance of Mr. Carroll.

Will you give us your full name and address for the record, Mr. Carroll?

MR. CARROLL: Patrick Carroll, 7295 Calumus Avenue, C-A-L-U-M-U-S, Woodside, New York.

JUDGE DYER: All right.

Now, the question is, a stipulation has been offered that Local 155 filed a Petition with the New York State Labor Board, and that the Petition was subsequently withdrawn.

Do you so stipulate, gentlemen?

MR. KONOWE: So stipulated.

MR. KIMMELL: So stipulated.

MR. EISENBERG: So stipulated.

JUDGE DYER: Mr. Carroll?

MR. CARROLL: Yes.

JUDGE DYER: The stipulation is received.

Q (By Mr. Kimmell) Now, Mr. Giordano, in connection with the processing of that Petition, did you cause to have prepared a payroll list of your employees which you submitted to the State Labor Relations Board?

A Yes, I did, at their request.

Q Now, I show you Respondent's Exhibit 5.

(Respondent Company's Exhibit 5 was received and marked for identification, of this date.)

Q (By Mr. Kimmell) I show you Respondent's Exhibit 5.

Is this a copy of the payroll list that you submitted to the State Labor Relations Board in connection with that Peititon?

A Yes, it is.

Q And is the name, Frank Baudo, on there?

A Yes, it is.

Q Was he in your employ as of that time?

A As of that date, he was.

Q How is it entitled, what date?

A September 13th, 1974.

Q So that, your statement before that he came to work on or about the 12th, would seem to be born out by this?

A Yes.

Q His name is not on the payroll period ending the -- September 10th?

A Which is a Tuesday.

Q Which is a Tuesday.

MR. KIMMELL: I offer Respondent's Exhibit 5 in evidence.

JUDGE DYER: Are there any objections to the receipt of Respondent's Exhibit 5?

MR. KONOWE: No objection.

MR. EISENBERG: No objection.

JUDGE DYER: All right.

There being no objection, Respondent Company Exhibit 5 is received.

(Whereupon, the above referred to was received and marked Respondent Company Exhibit 5 in evidence.)

Q (By Mr. Kimmell) Mr. Giordano, taking your mind to on or about September 9th, now, did there come a time when you met with Mr. Lombardi of Local 155?

A Yes, I did.

Q When was the first time you met with him?

A That Monday morning, which I believe was September 9th.

Q Had you spoken to Mr. Lombardi before?

A Not at all.

Q You knew him though, iddn't you?

A Over several years, yes.

Q Had you previously been a member of Local 155?

A Yes, I was.

Q Is this before you started your own business?

A Before I formed my own business, yes.

Q Okay.

Now, tell us what happened on September 9th, when you came to work.

Tell us -- Give us the events that took place with respect to 155.

A As far as I can recollect, I came in around 8:30 that morning. Mr. Lombardi was out front with several of my employees, and he said he wanted to speak to me, that these men were not going to go back until he spoke to me. And I knew who he was.

So, I said, all right, let's discuss it.

We went inside into my office, which is in the lower level of the building, and we sat down and we discussed it, the situation.

Q Just you and he?

A Just Mr. Lombardi and myself.

Q Tell the Board, as best as you can recollect, the exact conversation between you and that gentleman.

A He said that the men in the shop wanted to become Union members, and that why don't we sit down and make it nice and easy for everybody and discuss the situation.

And I asked him at that time, if he would present to me the members, in my employ, my employees' signed cards.

He said he does not have to, it's not required in law.

I said, well, then, I don't recognize you.

And that, basically, was the end of it.

Q Was anything else said?

A Small talk conversation, but nothing directly related to --

Q Did Billy Raupp come into the conversation?

A His name was brought into it.

He did mention to me that he was fired, and I said, no, he was not fired. Anytime he was willing to come back and work, he could come back to work. Raupp was not discharged.

Q And was that all that was said about Raupp?

A Basically, that's about all.

Then he left, we both went upstairs.

He walked out the back, he was talking to the men, I was getting a little annoyed now, because the men were on my time. It was ten o'clock.

I said, stop talking to the men in my yard, my property, or I'll call a cop.

He said, Sal, you're right, and he told the fellows to leave and they left.

Q By, "leave," --

A The men went on their various duties.

Q Now, at this conversation with Lombardi, did you ask him anything about proving that he was a majority representative?

A I asked him for the cards, yes.

Q And he said, no?

A He said, no.

Q Did he say anything about a priest, or a minister?

A Absolutely no mention of that at all.

Absolutely not.

Q Did you bring that up?

A No, I didn't.

I never thought of it.

I'm not familiar with the requirements.

He said no. There was no way of me forcing him to do it against his will.

Q During the course of that day, did you talk to your men and ask them whether they were members of the Union?

A I possibly may have.

Q Can you tell us who you talked to?

A To Raupp, Clifford and Balz, I would assume.

Vaguely, they were the instigators. They're young kids, they do't know what's going on. They approached me several times for raises.

We're going through a difficult time; finances weren't there.

They were the last ones to be hired, so they knew the line was going, that they were ready to go.

It was just a matter of time. And --

Q So, you asked -- you asked about four or five men?

A I'd say, four or five.

Q Can you tell the Judge the reason why you asked these men whether they were members of the Union?

A Well, truthfully, like any small businessman, I want to know why I wasn't first approached to see that the grievances were.

If there was anything wrong, they could come to speak to me, rather than want to become unionized. They would certainly have gotten more from me than with a Union at that time.

But they were looking for things that were beyond my scope of providing.

Q Did you have any other reason to ask them if they had signed cards?

A No.

Q Were you trying to find out whether Lombardi was telling the truth when he said he had a majority?

A To my knowledge, he didn't say he had a majority.

He couldn't prove it to me.

He wouldn't show me the cards.

In my mind, if he didn't have them then, he was still in the process of organizing.

Q Now, what was the next step?

What happened next?

A The fellows were starting to get laid off, previously.

We started the last week in August, one or two were going.

It was the end of the season, it was that time of the year where certain people had to leave.

And some of the key personnel have been with me a length of time, and their specific duties were not the same. They were changing.

And I believe, I can't prove it, I believe that one in particular possibly thought that he was one of the last people that would be let go, but he possibly would have a chance of being let go also, because it wasn't really a seniority basis, it was really in the department or the division.

And I sort of felt that he was looking for some protection also, which I couldn't, under the way I operated, there wasn't any seniority, basically.

Q At some point, 522 came in the picture?

A Yes.

Q Will you tell us how that came about?

A Jim Melville approached me, saying he was talking to a Union.

Jim had previously been a Teamster.

When he came to me he was a Teamster milkman.

And he said that he was looking for security, not so much salary, but more security. He's a married man with some children. And that he is looking for Union protection, and he had been talking to a Union.

He didn't mention which Union.

Now, all of a sudden there's two unions.

Q What happened next?

A I don't know who's who any more.

Q What happened next?

A At this point, I contacted the company attorney. And he said, don't make any decisions --

Q Was that me?

A No, not you.

You came a little bit later.

Q Okay.

A I contacted the normal company attorney, and he said, Sal, don't make any move until someone comes to you and shows you that they represent a majority of people that are working in the shop.

Then give me a call.

That's exectly what I did.

Q Did there come a point when someone approached you and showed you they represent a majority?

A Yes, they did.

Q Who was that?

A Mr. Sam Casalino.

Q When was that?

A Somewhere around, between the 9th and the 15th, 9th and the 16th, in that realm.

I don't know the exact date.

You have some letters that are signed by me.

Q Do you remember signing a stipulation on September 12th, with 522?

A If the date is the 12th, then I signed it on that date, yes.

Q At what point did Casalino approach you with the cards?

A Just prior to that.

Q The same day?

A Yes, the same day.

Q Okay.

So, on the 12th, Casalino comes in.

Tell us what happened when he comes in?

A Came in to me with Jim.

Q Did you know him?

A Never met him before.

I'm not related to him.

Never met him before.

He was there one morning when I came in.

Jim Melville was there and Jim introduced me to him and Sam introduced himself to me.

He came down, talked to me, explained to me what the situation is. That some of the men in the shop want to become unionized, and that he had signed cards. Which, at that time, he presented them to me.

I looked at them.

Q How many cards did he give you?

A Eight, seven, eight, nine.

Do you have a list or the cards?

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

Q (By Mr. Kimmell) I show you --

They're marked Respondent Company's Exhibit.

JUDGE DYER: It should be Respondent Union's Exhibit.

MR. KIMMELL: They're all marked Respondent Company.

JUDGE DYER: The reporter will remark them as Respondent Union Exhibit with the same numbers.

Q I show you Respondent Union Exhibit 1 for identification.

Are these the cards that Mr. Casalino showed you?

A I believe so, yes.

Q Would you look at the dates.

Is one of them signed afterwards?

A One is signed afterward, yes.

Q With the exception of that one, are the remainder of the cards that he showed you?

A Yes, they are.

Q How many are there?

A Eleven.

Q Eleven cards.

Did you check those names?

Were they the names of your employees?

A They were the employees then, yes.

Q Did you then sign the recognition --

Did you then sign the recognition agreement that he gave you?

A I called the lawyer first. Called my attorney first.

Q What did your attorney say?

A Explained to him what I did, and he said, at this time, it is not a contract, it's only a recognition, that he was not available, he said, you could sign it, there should be no difficulty.

Q And then you signed the --

Then you talked to the Union, and you signed a memorandum of agreement?

A Yes.

Q And a formal contract?

A Yes.

Q And were there certain raises given to the men?

A Raises were given to the men.

It was a three year contract and they had increments during the three year period.

Q There were other benefits given?

A More vacation time, sick days, bereavement days, Blue Cross, Blue Shield paid in full by the company.

Q Holidays?

A Additional holidays.

Q How much of a wage increase was given?

A Over the three year period, it would range $60.00.

Q Was that broken down, more or less, evenly?

A Fairly close.

It was substantially more initially, and then less at the end of the three year period.

Q About $60.00 per man over the three year period?

A Yes, $60.00 per man over three years.

Q Now, after the contract was signed, did you talk to any of the men about signing, those who hadn't already signed up with 522, did you talk to them about signing up with 522?

A Not directly until Mr. Casalino came one day.

At a meeting with the men --

Mr. Melville informed me he was coming to discuss this situation with the men, and he wanted all the people that were employees to be available, and I agreed.

Q And --

A And at this time, Mr. Casalino explained the contract to those employees, and those that had not signed the cards, explained it to them and told them that they had thirty days in which to make up their mind, at which time that time expired, they would not be able to work for Scientific.

Q Did everybody then sign up?

A Most of the people were already signed up.

Q Right.

And those who hadn't signed, did they sign, or were there any exceptions?

A There were a few exceptions, yes.

Q Was Raupp one of them?

A Yes, he was.

Q Was Balz one of them?

A Raupp, Balz, Clifford, DeMeo.

Q Did DeMeo ultimately sign?

A DeMeo did sign, yes.

Q Okay.

Now, did there come a time when Local 522 sent you an official notice telling you to dismiss Balz and Raupp?

A Yes, they did.

Q Did you do it?

A I gave them another opportunity to sign the card and to continue in my employ, and they refused, and I said I had no alternative.

Q Okay.

When they wouldn't sign, did you dismiss them?

A I had to dismiss them, yes.

Q After that, did you happen to change your attorneys?

A Yes, I did.

Q Did you contact me about that?

A Yes, I did.

Q Did you discuss the dismissal of these two men with me?

A I did.

Q Did you tell me --

Would you tell the Judge what was said during this conversation?

A You advised me, at that point that to, if possible, reinstate the employees. But there would be a difficult situation, and I explained there would be a difficult situation as the other men possibly would go on strike, and all prior to this, this thirty days period, there was a great deal of harassment between all employees, between both parties.

And I said, there would be a great deal of difficulty in my shop, I don't want to be responsible for anyone being bodily harmed, I would be blamed for it, so therefore, it would be very difficult for me to employ them at the same location, because some fellows said they would quit, pull a strike, and everyone will go.

Q The question of bodily harm, what was that about?

A The employees were fighting between themselves.

Q Had there been some actual, physical fights?

A Pretty close to it.

Q It was over this issue of not signing up for the Union?

A Yes.

Over the Union.

Q Did you then decide to send them out to Port Washington?

A Yes.

At your advice, suggesting I put them back on the payroll and find another location for them to work out of, I sent them to our Port Washington office.

Q Now, this Port Washington office, had you -- did you have a regular office there?

A It's not an office, as such.

It's not manned by anyone.

It's in a building that is owned by my brother, and I happen to be a partner in his business, and a partner in the property also, and it's a depot.

I have spare parts there, chemicals there.

If something breaks down, there's a shop in the back for the Nassau men to repair something.

Termite trucks can stop in there for repairs.

Chemicals are kept there.

It's a registered office with the New York State Department of Environmental Conservation, under their law.

Q Did some of your employees regularly work out of there?

A They would go there on occasion, yes.

Q I want to show you a yellow pages for 1972-73.

Do you have --

Is there any ad in there?

A Yes.

We advertise in the Yellow Book throughout Nassau and Suffolk County, and in this book, in the exterminating heading, on Page No. 77, there's an ad for Scientific Pest Control at 88 South Bayliss Avenue, Port Washington.

Q Is this a half page ad?

A Half page ad.

We've been running ads in that book since 1970 to date, and we're still advertising the same location in this year's Yellow Directory.

MR. KIMMELL: Do you want to encumber the record?

JUDGE DYER: Do you all agree, gentlemen, that this is what it shows?

Is there any doubt of it?

MR. EISENBERG: No.

JUDGE DYER: We'll take it as a fact at this point, gentlemen.

MR. KIMMELL: All right.

Q (By Mr. Kimmell) Now, when you assigned these two men to the Port Washington office, was their pay kept the same?

A The rate of pay stayed the same.

Q How about conditions of employment?

A Exactly the same.

Q Were they given --

What kind of duties did you assign them to?

A Exact same work.

I tried, where possible, to have them work as close to the Nassau County line as I could, but there were other Nassau men that were working there and there was not that much work available.

There was a borderline route that extended from Nassau into Suffolk County.

Dennis Balz had the same route. No change.

Q He still operated down in Babylon?

A Same area he had previously operated.

Q Is Smithtown any closer to Babylon than any -- than Port Washington is?

A Comparable.

Perhaps Port Washington may be a few miles longer.

Q By a few, how many?

A Four, five miles at most.

Q Right.

Now, there came a time, did there not, when these two men were let go?

A Yes.

Q Can you tell us the circumstances about it?

MR. EISENBERG: Objection.

MR. KIMMELL: I'll withdraw the question.

I think we have enough about that.

Q Now, when Raupp was hired, what was the pay that you gave him?

A I believe it was $110.00 a week to start.

Q Did you raise him to 125?

A Yes, I did.

Q And did there --

How many days did he work for you?

A Five days, a half a day every other Saturday.

Q Okay.

A Which amounted to, basically two or three hours.

Q Right.

Now, did there come a time when you talked to him about doing more work?

A He approached me.

Springtime of the year is again, our normal busy time, and usually on a Friday afternoon, I would see who would want to work Saturday, who was not assigned to that Saturday.

Usually, Bill would say, I need the extra money, I'll do it.

He approached me and made me an offer.

He said, I'll work every Saturday, for a few hours, for $25.00 a week more.

Q Did you agree?

A And I agreed to it.

I said, fine, if you're willing to, and by that same token, he has the opportunity to sign up additional customers and work on a commission basis.

Q At that time, did you tell him this would be permanent or only for the season?

A Just for the season.

Q Did he understand that?

A Yes, he did.

Q When the season ended, did you talk to him about going back to shorter hours?

A No, he approached me.

He said he didn't want to work the schedule any more, he wanted to work a normal schedule like every other serviceman does.

Q When was this?

A In September.

Q Do you know about when?

A I guess somewhere around the middle of September.

Q And he approached you and then did his pay go down to 125?

A His pay was reduced to $125,00 a week, and he was starting a car reimbursement expense, also, at that point.

He said he wanted whatever other service man had.

Q That meant, instead of you paying the gas, you gave him a car reimbursement?

A Right.

I pay $25.00 a week for the use of his automobile.

Q Do you pay the same $25.00 for every man?

A Depending on the areas, yes.

Some men get 20, some get 30.

If they travelled out to Riverhead from our office every day.

Q Riverhead is quite a distance away?

A Quite a distance out.

Q About September 17th, when he was transferred back to the alternate Saturdays, was that about the time that your season was ending?

A Season was ending prior to that.

We were stretching it out as much as we could, but it was over prior to that.

We were starting layoffs the end of August.

Q Now, this --

When you transferred him [illegible] to the alternate Saturday, did that have anything to do with the Union?

A Absolutely not.

It was standard.

That was the conditions he agreed to work for under initially.

Q Now, do you have any kind of policy with respect to training at the Farmingdale State College?

A Yes, we do.

We have several means of training.

I have a training program in our office, where I hire a professor from the university, and he would come out to our office about every six or eight weeks and have one afternoon seminar.

The men would be paid for this, at our location, and he would train them on the problems that we would be encountering during the next season, the next three month period.

At this time of year, we're having one now, and it's on rodents, squirrels, rats, mice, so forth. Standard procedure.

Q Do you also have a policy of helping some of your employees attend courses at Farmingdale?

A We've had a few aggressive people that wanted to go beyond what we had, and had the potential to do that, that after they were with me one year, I would send them to Farmingdale.

Q At whose expense?

A My expense.

And they would receive additional training.

Q Did you ever discuss this with Raupp?

A It was discussed with him when he was hired, that if he was with me, we would potentially send him to Farmingdale.

But there's no cut and dried. Depends on the circumstances.

Q But policy normally takes a year?

A A year.

I will not send an employee who has been with me less than a year, because there's no chance of him possibly staying. He may leave before that.

Usually, if they've been with me a year, they'll stay.

Q Do you recall discussing this with Raupp on September 8th, in your office?

A He asked me about it.

Is he --

Q What did he say?

A He said, am I going to Farmingdale.

And I said, there's no -- as far as I know, you're not going now.

And that was the end of it.

Possibly in January, when the course runs again.

There's only limited number of students that must be able to take this course. In order to apply for it, generally you're three or four or five months ahead.

It's not on demand. You can't just walk in and sign for the course.

Q Had any application been made by you or him before this?

A None whatsoever.

Q Did you rip up the application and a check?

A There are no applications required.

In other words, this -- we would call beforehand, Dr. Fishman, that's who's handling the course, and say, I have two students, three students, whatever is available.

He will then put their name on a list.

This is where they're taken from.

First come, first serve basis.

Q You say you make these arrangements beforehand?

A Three, four month beforehand.

Q Did you rip up any application?

A No.

Q Had you made up any check that you ripped up?

A No check.

There's no way to pay.

How do I know what to pay when he's not going.

I don't even know how many students are going.

As a matter of fact, no students went there. No openings were available until January 15th.

Q Now, what were the hours of work for routemen and servicemen?

A Eight to five.

Half hour for lunch, two fifteen minute breaks in the morning and the afternoon.

Q Was that posted in any form?

A Yes, it was.

They were all told about that many times.

Q There's an Exhibit here, Respondent's Exhibit 4.

Have you ever seen that?

A Yes.

Q Did you post that?

A I had this typed up and the employees, at that time, were asked to sign it, that they did see it and understand it.

Q When was that posted?

A August 13th, 1974.

Q Is that the date that's on it?

A That's the date on the slip.

Q Is Bill Raupp among other people posted?

A Yes, he is.

Q Did you tell him about September 9th or 10th, that because of the Union, he would no longer have an hour's lunch, but would have to have a half hour's lunch?

A No reason to.

It was clearly outlined before that, and he agreed to it.

Q They already had a half hour lunch?

A And beyond.

Q All right.

Now, let's talk about Clifford.

Do you remember when you hired him?

A During the beginning of the season of 1974.

Somewhere in March.

Q March of '74.

Now, after he was hired, did you ever give him a raise?

A I would assume so, yes.

Q Do you want to look at your records and see whether you ever gave him a raise?

(Handing.)

A I see.

No, I did not.

Well, he went from --

Yes. Yes, I did.

Yes, I did.

Q What did you hire him at?

A Hired him at $120.00 a week.

Q What --

A And $25.00 a week for the use of his automobile.

Q Was he raised to anything?

A The following week, I raised him to $125.00.

Q Right.

Is that where he stayed?

A That's where he stayed.

His performance was very poor.

Q Okay.

A Also, at that time, he was told that he needed a better car, he had a very old car, rather poor condition.

He said he was financially strapped, had been unemployed, he didn't have the money, but after he worked a few weeks, he would possibly look for another automobile.

Q Had you said something to him about the necessity for a vehicle when you hired him?

A For a better vehicle.

A vehicle is standard procedure.

Without the vehicle, I cannot use the man.

The only time we have vehicles available is, perhaps, in an emergency, or if I should have an idle vehicle sitting there that day.

Generally, I don't assign vehicles.

Q At the time you hired him, did you discuss with him the vehicle that he had?

A Yes, I did.

Q Would you give us the discussion?

A In essence, it was that it was a very old automobile, it was not an economical automobile.

They are based on flat rate, $25.00 a week for the use of their car.

Q Is this a large Impala Chevrolet?

A A large car.

Got nine or ten miles to a gallon.

Most of the other employees have smaller cars, compact cars, Volkswagons, Pintos, much more economical cars.

I said to him at that time, the chances of you making any money using that type of vehicle is rather negligible. It's going to cost you money.

He said, well, I don't have the money, but I will be looking for something else.

Q Okay.

Then what happened?

A Throughout his whole employment, we had nothing but difficulty with his automobile.

The car kept breaking down. Constantly repair problem.

At one point, it broke down, his front wheel fell off the car while he was driving it. I sent another employee of mine to help him, and the other employee spent a whole afternoon with him looking for spare parts for his car. I lost two men.

Mark Minter went to help him. And both of them were out of work for the whole afternoon, which I paid them for.

This was a repeated process.

His car wouldn't start in the morning.

Nothing but engine problems. Difficulties. It happened throughout his entire employ.

He was warned throughout that he needed a better vehicle.

Q Was he absent a large number of days?

A Yes.

Q Were most of these absences because of his automobile?

A Almost always automobile difficulty.

I'd like to explain one thing, if I can, a little further.

They have assigned work, each one of our men have a schedule of work that must be performed on a specific day each month.

I don't have a spare man sitting there that if he doesn't show up, someone else can do this work.

And, again, it's 75 percent residential. The people know the exterminator is coming on the second Monday of each month.

If a man doesn't show up, we have to usually sit down and try and call these people and say, no one will be there today, we'll try and get back to you another day.

So, it caused a great deal of difficulty for us to operate on a schedule basis, not knowing when he was coming to work.

Q Okay.

Now, did there reach another time when the car breakdowns got so frequent that you did something about it.

A Broke down and he said, it would take a little time for him to fix the car, I don't know whether it was internal problems with the motor, whatever it was, and we were starting to slow down, and I said, all right, Tom, we'll let you use the company truck for a week or two, which he said that's all he needed to fix his car, he was going to get a used motor somewhere and put a new motor in.

I said, fine, he can use the truck for a week or two, and then get back to your car.

But I kept insisting that he should get a better car. The car was old and had many, many miles on it.

It was not going to hold up.

Q Did you ever see the odometer on it?

A No, I didn't.

It was an old, beat up car.

Q Okay.

So, you gave him the use of the company vehicle?

A Let him use the company van.

Q How long did he have that?

A Four, five weeks, perhaps.

Q Meanwhile, what was he doing?

A Doing his normal service work, with our van, but again he wouldn't show up even with our van.

He would call up on a day and not come to work.

Q Did there come a point when the van needed some repair work?

A It was time to go in for a tune-up.

I believe he stated the windshield wiper wasn't working or the horn.

He reported something was wrong with the van.

Either the inspection was overdue, or something was wrong with the truck. And I said, at that point, the truck has to go into the shop for normal maintenance, tune-up and repair work.

Then, when it went in, we found out that the motor was run with no oil in it, and the motor was seized. The motor was broken.

At which point, we brought it to Ramp Motors, a Ford dealer in Port Jefferson, and they installed a new motor in the truck.

Q Okay.

A At a cost of over a thousand dollars.

Q When you took the van away from Clifford, what did you tell him about a car, about him getting a car?

A He had to have a car.

He said his car was ready --

He had to have a car.

The truck was going into the shop, I had no other vehicles for him to use, he had to have his own car again.

Q So, what happened?

A Came to work the next day with somebody else's automobile, I believe.

I don't remember exactly what it was.

He worked a day or so, and, again, repeated circumstances. No car. Car broke down.

Go out on the job and the car -- wouldn't finish the day. Call up in the middle of the day with difficulty.

Wouldn't finish the day's work.

Q What finally happened?

A One morning after again I told him I've had it, got to have a decent car otherwise you're not going to work.

One morning he came in, the normal time, late as usual, 8:30 or so, took his work and left. The first stop is about ten, fifteen minutes away from the office. Called up, oh, half a hour, 45 minutes later, and asked for Billy Raupp. Wanted to speak to Billy Raupp. Wanted to know where Bill was working.

Girls don't know where the man is. He's out on the road. Said we couldn't help him.

He said, I don't want to speak to anybody else. Called back again a half hour, 45 minutes later and I spoke to him.

I said, what's your problem.

He said, my car has completely had it.

Q Is this still the Chevrolet?

A Still the Chevrolet.

The original car that he had.

I said, where are you.

He was very reluctant to tell me where he was.

I said, where are you.

He said, well, I'm down at the diner.

The diner is in the complete opposite direction where he was supposed to be.

Evidently, he never got to the first stop, he went right to the diner and the car stopped right in the diner's parking lot. Never moved any further.

I went down there, I said, can your car run. He said, no, the motor won't turn over at all, it's frozen.

I said, at this time, he wasn't sure whether he was going to leave it, tow it home or what.

I said at this time, take all my material out of your car. Anything belonging to Scientific, I want back.

You have to take into consideration, we are handling restricted pesticides, that could be dangerous if they get in the wrong hands.

He had them laying in the back seat of his car, openly exposed, which is a definite violation of the law.

And I took them all in my car, brought them back to the office and I said, have another car tomorrow morning for work. If you don't report to work, I have to replace you, I have to get someone who can work and is ready, willing and able to work.

That was the end of it.

Q Did he come back?

A Didn't come in the next morning.

The following morning, he comes in, and he said, I may have a car, do I have a job.

I said, do you have a car.

He said, I may have a car, do I have a job.

I said, if you don't have a car, you don't have a job.

That was the end. I walked away from it.

Q Did he tell you anything about a rented car he had?

A Most certainly did not.

Q Now, --

A What creates difficulty with these fellows, also, every time they change their automobile, I have to get a floater policy on their car, for company liability. Many times they were changing their automobiles without telling me.

Q Now, was this man assigned to handle an account at the Suffolk County Department of Health in Farmingville?

A Yes, he does; normal, routine account.

Q Now, what's the procedure when a man goes to service the account?

A Stops in and sees the supervisor of the building, and either the supervisor will go around with him, or tell him what specifically has to be done.

If he doesn't outline anything in particular, then the serviceman has a normal procedure that he's to follow.

Q By supervisor, you don't mean your supervisor?

A No, supervisor with the County.

Department head.

Usually a buildings and grounds man.

Q Okay.

Now, at this account, was this a monthly account at --

A A monthly account, yes.

Q Now, when was the man --

This was Clifford's route?

A Clifford's route.

Q When was he scheduled to go in September?

A On his normal scheduled day.

I'd have to look at the cards.

Q Are these the regular cards you keep in the course of business?

A Yes.

Q What's the regular date?

A Third Friday of each month.

Q When did that come out in September?

A On the 26th.

Q Okay.

Will you tell us what happened?

A On the morning of the 26th, Clifford never came in, which is nothing unusual.

On the early stops, we do let him go out early.

If I'm not mistaken, there was some mention that his sister had a baby the night before, the day before, or was expecting a baby, momentarily.

So, he -- being he didn't come in to check in the morning, we assumed he went right out and did the work.

Q This was not unusual to go directly --

A On early stops, we would permit it, yes.

Rather than come to the office, he had to be here at 8:30, rather than come to the office at 8:00 o'clock and drive there, let them save time.

Standard procedure for early stops.

The end of the day, he came back and brought his work in.

We looked through it, the card wasn't signed, but he had a signed receipt.

Q You say, the card wasn't signed?

A The card was not signed by the building superintendent of the health center, but it was signed by Mr. Clifford that he was there, and that there was no condition.

Q Now, is this a normal card?

A It's a copy of the normal card, yes.

Q Does the serviceman initial it to show he was there?

A Initials it that he was the serviceman, the date he was there, and the condition of the premises.

Q What dondition is written there?

A "Good."

There were no active condition.

Q Now, whose writing is that, "Good" in?

A Certainly appears to be Mr. Clifford's.

Signed exactly the same as above.

MR. KIMMELL: Mark this as Respondent Company Exhibit No. 6.

(Respondent Company's Exhibit 6 was received andmarked for identification, of this date.)

Q (By Mr. Kimmell) Is this the normal card?

A Yes, it is.

Q It shows no signature by the customer?

A No signature by the customer.

I underlined it, because there's an "X" where the customer is to sign his name, but being we had a signed receipt --

Q Hold on.

You looked at this record at the end of the day?

A Right.

Q You saw no signature?

A Right.

Q You put an underline on it because you noticed --

A Right.

Q Then, what happened?

A The next morning, we got a call from them, saying that the man never came. From the health center. A serviceman never showed up on his day. And I went to the route card, and I got the card, I told him, we have a signed receipt that the man was there, that you signed.

Q In other words, --

A This receipt is a copy --

Q Let me take this out.

This [illegible] log sheet --

MR. KIMMELL: I'd like to mark this Respondent Company's Exhibit No. 7.

(Respondent Company's Exhibit 7 was received and marked for identification, of this date.)

Q (By Mr. Kimmell) You get a call from this man.

What's his name, from the County?

A Kriedemaker.

Q He called you up on the 27th?

A He called me on the 26th.

Q What happened?

A Saying the man never came that day, what happened.

He usually expects him on the third Friday.

Q What did you say?

A I said to him that Tom wasn't in yet

I said, Tom, let me check it out and I'll get back to you on Monday, which I did.

I sent a serviceman over --

Q Hold it a minute.

When you checked it out, did you find any receipt?

A I checked out, I had a signed receipt.

Q Is this Respondent's Exhibit 7?

A Yes, it is.

Q What is this receipt, can you explain that?

A It's a receipt that is to be left, a copy of which is to be left in the health center for them to forward to their accounting department and it's dated the 26th of September, 1974.

Q Who's supposed to make the receipt up?

A Our serviceman has the receipt books.

They make the receipts up.

Q That's Clifford?

A Tom Clifford, in this case.

Q Is the receipt signed?

A It's signed.

Q By this man, Kriedemaker?

A That's correct.

R. J. Kriedemaker.

Q Then, what happened?

A Mr. Kriedemaker called up saying no one was there.

I said, all right, we'll check it out.

I did check it out. I saw we had a signed receipt.

I sent another serviceman over, with the receipt, to show him.

He then sent me back another note, in his own handwriting, to my records the serviceman was not here on the 26th.

MR. KIMMELL: Will you mark this as Respondent Company's Exhibit No. 8?

(Respondent Company's Exhibit 8 was received and marked for identification, of this date.)

Q (By Mr. Kimmell) Okay.

Now, No. 8, Exhibit No. 8, was sent back by Kriedemaker through the serviceman?

A Through the serviceman.

Q What did you do then?

A I called --

The serviceman reported back to me what had happened.

I called Mr. Kriedemaker up and I said, are you sure no one was there from our company.

He said, most certainly, and the secretary that was here also said the man never came.

I said, would you please put that in a letter to me.

Q Did you say anything about this yellow receipt?

A He had seen that. He had seen that.

The serviceman that I sent back on Monday, brought this receipt with him, to show it to him.

At that time, he looked at this, and told me that this was not his signature, nor the signature of any member of his staff.

Q All right.

Then what happened?

A I asked him, would he please put that in writing to me, and he said he certainly would.

Here's the letter from him.

Q This is the letter that he sent you?

A This is the letter he sent me.

MR. KIMMELL: Mark this as Company's Exhibit No. 9.

(Respondent Company's Exhibit 9 was received and marked for identification, of this date.)

Q (By Mr. Kimmell) Now, after Kriedemaker told you that he had not signed this, and the man had not been in, you talked to Clifford about this?

A Spoke to Clifford about it.

Q What day was that?

A On that Monday.

Q What did you say to him and he to you?

A I confronted him with the fact that the fellow said he wasn't there, but he said he was there, but no one was around, and someone there signed the slip, and he doesn't remember who. He thinks it was the secretary.

And that was the end of it.

Q Did you reprimand him?

A I certainly did.

I told him, if this happens again, he certainly will be discharged, and that it's a pattern, his work is becoming completely lax.

He didn't tell us he was going there. He come in at 10:00 o'clock in the morning, punched in and said he was there, to account for the two hour lapse in time.

MR. KIMMELL: I offer Respondent Company's Exhibit 6, 7, 8, and 9 in evidence.

JUDGE DYER: Any objection?

MR. EISENBERG: No objection.

JUDGE DYER: Hearing no objection, Respondent's Exhibits 6, 7, 8 and 9 are received.

oOo

(Whereupon, the above referred to were received and marked Respondent Company's Exhibits 6-9 in evidence.)

Q (By Mr. Kimmell) You actually fired Clifford when?

A I'll have to look at the record.

Q Do you remember the date?

A Not offhand, no.

Q I think the Complaint says --

JUDGE DYER: The Complaint says October 1st. And the Answer admits October 1st.

Q October 1st.

Will you -- Will you tell us, in your own words, why you fired Clifford?

A Firstly, for lack of a proper automobile.

The man was completely undependable and we weren't sure whether or not he was coming to work from day to day.

Each time he didn't show up for work, it created a great deal of difficulty in getting the normalday's work performed.

He was warned repeatedly to obtain a new car. When he didn't get the car, we had no alternative, and I believe that would have been the climax, and I'm referring to the falsification of someone's signature, it was just compounding one thing after --

He was creating nothing but difficulty in the entire operation.

Not performing his duty.

Whatever we would tell him to do, there was an answer. He wouldn't come in on time. Habitual late. Come in every morning --

Q Did you ever warn him about lateness?

A Constantly, constantly.

It was getting to be a point where it was ridiculous.

I was more than generous.

He should have been fired months previously.

He was a seasonal person, only employed for a short period of time, and the time was coming near to lay him off.

Q Was there anybody in your organization who had an absenteeism record --

A Absolutely none.

Q Was there anybody in your organization who had a lateness record like him?

A None.

Q Did anybody else have trouble with cars like he did?

A No one near this.

There would be occasional breakdowns, which is justifiable. Once a month, once every two months.

I broke down myself coming in here today. Things do happen.

But when it's a habit, when he has an old automobile, and he promised when he was hired, he would get a new car, or better car, and he didn't fulfill it --

Q Now, did the fact that he was a -- had signed up for 155, have anything to do with your dismissal?

A Absolutely none.

If he would have had a decent car, he would have still have had a job, until the period of the season ran out.

We were approaching that period anyway.

Q He would have been laid off anyway?

A He would have been laid off before the end of the year.

I believe that, at that point, we were cutting down the routes from ten servicemen to, we currently have seven.

That's how much lack of work has been in Suffolk County.

Q Now, you knew pretty much who the Union people were, who were for 155?

A They were very prominent, very vociferous in the office.

Q Did you fire any of them outside of Clifford?

A None.

Q I realize Raupp and Balz were let go?

A Different circumstances.

MR. KIMMELL: That's all the questions.

JUDGE DYER: Off the record.

(Discussion off the record.)

MR. KIMMELL: We'll break at this time until 2:30.

(Whereupon, the hearing was adjourned at 1:30 o'clock P. M.)

JUDGE DYER: On the record.

Mr. Kimmell, you have one or two other matters to cover?

MR. KIMMELL: Yes.

CONTINUED DIRECT EXAMINATION

Q (By Mr. Kimmell) Mr. Giordano, do you recall an employee named Minter?

A Yes, I do.

Q Now, did Minter at some point give you a letter of resignation?

A Yes, he did.

Q I show you Respondent's Exhibit No. 3, which I understand despite the marking on here, Judge, has been received in evidence --

JUDGE DYER: I show it as marked received in evidence.

If there's any question about it, it's received in evidence as of this time and should be so marked.

Q Now, is this the letter of resignation that he gave you?

A Yes, it is.

Q When did he give you that?

A On 8-27-74.

Matter of fact, as he wrote it out in his own

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hand, he inadvertently put eight down, that he was leaving the same day, and I said no it's not eight, it's nine.

If you look under the nine, you'll see eight --

Q Where it says 9/9/74 --

A He had put eight instead of nine.

He wanted to leave immediately and I said --

Q Who put the date 8-27-74?

A I did.

Q When did you do that?

A That day, because the letter was not dated.

Q So he gave it to you on August 27th?

A August 27th.

Q There's also some notes on the bottom.

A This is the name of the person to whom which I contacted to make sure he was working at Cable T.V., and he said yes, he did.

Mark had said to him this -- Mr. Peter Jenkins said you have to come to work immediately.

I then telephoned Mr. Jenkins to see if I could get an extension, because I was left flat without someone for that period of time.

Q That's your handwriting?

A Yes.

Q When Minter gave it to you, that stuff --

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A Was not there.

Q He gave you this note saying I'm leaving on 9/9/74?

A Right.

Q Give us the conversation when he talked to you on that date?

A He was not happy with the job.

He wasn't making enough money, his wife was expecting a baby. He had just started his own business as well. Some sort of a club with coupons.

I have it in my file if you need it.

And he said that between the two, and he could possibly make ends meet, this was a better job, it was inside, he didn't want outside work. He was not affected by the weather, and he would prefer to have that job.

Q So he gave you that resignation on 8-27?

A Right.

Q To become effective 9/9/74?

A Right.

Q What happened on 9/9/74?

A He came in and wanted to leave that day.

I said Mark --

Q Had he told you that he had spoken to his wife?

A That his wife said he had to report to work.

And I said to him Mark, just give me a few more days.

I believe he worked one or two days. I gave him a few extra days' pay and I said thank you very much.

And that was the end of it.

Q Okay.

You say he worked one or two days past 9/9/74?

A He worked maybe Monday and Tuesday, and that was the end of it.

Q Right.

Now, there's been marked in evidence a letter from --

Strike that.

When you get registered mail in your company, do you have any practice what you do with the envelope?

A Generally registered mail I'll staple to the contents of the letter itself.

Q Do you open all letters in your -- that come to your company?

A No, I do not.

Q What about registered mail?

A Registered mail I do.

Only I open registered mail.

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Q By registered we also mean certified.

A Certified, registered mail.

Q You open them, and it's your practice to staple the envelope to it?

A Yes, it is.

Q Do you recall receiving a letter from the Union dated September 9th, asking for recognition?

A Yes, I do.

MR. KIMMELL: Mark this as Company's Exhibit 10.

(Respondent Company's Exhibit 10 was received and marked for identification, as of this date.)

Q (By Mr. Kimmell) So the record will be clear, Company's Exhibit 10 is the original of another Exhibit that was put in by General Counsel.

Now, do you remember receiving this letter?

A Yes, I do.

Q Did you open the envelope?

A Yes, I did.

Q Is the envelope attached to it, stapled to the copy of Exhibit 10?

A Yes, it is.

Q Now, this envelope, is there any indication on there when it's postmarked?

A The postmark on here is the 12th of September, 1974.

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Q Do you know when you actually received the letter?

A I would assume the 12th.

A day or two after.

Q The 12th or the 13th?

A The 13th.

Not the 12th. The 12th or the 13th, yes.

Q Now, are you certain that you didn't receive this before?

A To the best of my recollection, I would say no.

MR. KIMMELL: That's all the questions I have.

I offer Company's Exhibit 10 in evidence.

JUDGE DYER: Any objection?

MR. EISENBERG: No objection at this time.

MR. KIMMELL: One final question.

JUDGE DYER: Received.

(Whereupon, the above referred to was received and marked Respondent Company's Exhibit 10 in evidence.)

Q (By Mr. Kimmell) Do you recall when you signed this recognition agreement with Local 522?

Did you receive this letter, Company's Exhibit 10, before or after you signed that recognition agreement?

A I signed the recognition agreement before, because our postal delivery usually isn't until 1:00

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or 2:00 o'clock in the afternoon.

Q Even if you received it on the 12th, it would be after you signed that 522 recognition?

A Right.

Q Did you sign that in the morning?

A In the morning.

He was there in the morning when I came in.

Q Now, the next day you signed this recognition -- this memorandum agreement with Local 522?

A Yes.

Q Do you know whether you received this letter before or after you signed that recognition agreement?

A Now you're getting me mixed up.

Q That memorandum agreement.

Let me rephrase the question.

A Okay.

Q First you signed a recognition agreement with Local 522?

A After they showed me cards.

I don't know the terminology --

Q That was on the 12th, September 12th?

A Yes.

Q On September 13th, there is in evidence a memorandum of agreement that you signed with Local 522.

Now, do you know whether you received this

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letter, Respondent's Exhibit 10, before or after you signed that memorandum of agreement?

A In all truthfulness, I don't. I don't.

Q Okay.

MR. KIMMELL: No further questions.

JUDGE DYER: All right.

Mr. Konowe, do you have any questions?

MR. KONOWE: No.

JUDGE DYER: All right.

General Counsel, it's up to you.

MR. EISENBERG: Thank you.

CROSS EXAMINATION

Q (By Mr. Eisenberg) Mr. Giordano, I want to direct your attention first to Mr. Baudo.

A Yes.

Q Was it your testimony that basically you call him when you need him?

A No.

Q What was your testimony?

A Not as such.

He is available at different times throughout the year. If we're busy, and he's available, I will use him first, because he has experience.

Q Right.

Suppose you're busy and he's not available?

9 A If he's not available, then I will try and do with what I have, because he is a fill in man.

I don't have enough for a new man, but there's too much for what we have, we just try and do with what we have.

Q Do you sometimes call him and he's not available?

A No.

Because he tells me when he's available generally for the month. He'll say I'm available the 2nd, the 12th, the 15th, whatever days he's available.

I'll try and build our work around his schedule.

Q Did there ever come a time when he would tell you that he wasn't available, and then later would change that and say he is available?

A No.

Because generally I say no.

Q That never happened?

A To my best recollection, no.

Q When he tells you he's available, you don't use him, is that right?

When he's unavailable you don't use him?

A If he's not available I'll have to do without

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him, of course.

Q He workes on a sporadic basis, doesn't he?

A Our type of service is a unique one in that we receive calls everyday, and in our industry it's an emergency.

Q It's a special?

A What we call a special or complaint call, or various terminology.

Q Who do you normally assign specials to?

A The routemen first.

If the routeman can't handle it, then I have other peopel that will fill in.

I'll take specials. I go outs and do them.

Whoever's available.

Q Is it correct to say that Mr. Baudo only does specials?

A No.

Mr. Baudo I would try and plan vacations schedules around him.

If he's available for 5 days, he's on the night shift, and I have a man on vacation, I'll say Frank, John Michalicka is on vacation, take him whole week's work.

Q There would be a week or so when he doesn't work?

11 A There are many times.

Q There would be, as a matter of fact, nine-month stretches where he doesn't work at all?

A I wouldn't say that, no.

Q Didn't he stop working from January to September, 1974?

A Approximately that period.

He had problems that period.

Q Scheduling problems.

So you'd know he'd be unavailable and you wouldn't even call him?

A I would use other part-time people, in a similar category. Other policemen.

Q What about your --

I want to direct your attention to your sons, Mark and Joseph.

A Yes.

Q How do they happen to go to work?

A How do they happen to go to work?

Q Yes.

A They needed a job, like everyone else, school age children.

Q Do you have a fixed schedule for them?

A A schedule?

Q Yes.

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A Yes, they have a schedule.

Every Saturday they clean the office, top to bottom.

Q You also mentioned, I believe, that they come in --

A Wash the trucks.

Q During the week, once in a while?

A In the springtime they do.

During the hectic time of the season they clean the trucks. We have to put chemicals on the trucks.

Q Do you have any schedule for them?

A Schedule such as?

Q During the specific time?

A No, sir. No schedule as such.

Q Do you ever ask one of your sons to come in and they don't, or they tell you they can't, they have a music lesson or something?

A Not in my family.

Not in my case. I'm a true dictator.

Q That doesn't apply to your employees, does it?

A Within limitations.

Q Okay.

Is it not a fact that it's Mr. Baudo who determines when he is to work and when he's not to work, basically?

13 A Yes.

Again, if I could just elaborate on that --

Q That's not necessary, Mr. Giordano.

Mr. Giordano, did you receive any other certified or registered mail from the Union, other than this September 9th letter?

A I believe I did.

Q Is that the same letter as General Counsel's-- - General Counsel's Exhibit 13A, B and C?

A Let me take a look at it?

(Handing.)

A I believe this is so, yes.

Q Do you have a copy of that letter?

A I believe so.

Q A copy of the envelope of that letter?

A No, I do not.

Q Isn't it a fact that the receipt for the letter, September 11th, that would be Exhibit B to General Counsel's Exhibit 13, has the same certification number as appeared on Respondent Employer's 10?

A Yes, it is.

I previously checked it.

Q Is it not a fact also, Mr. Giordano, that you knew that Local 155 had an interest in your employees, even before you were contacted by Mr. Casalino of the

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Teamsters for the first time?

A No, I did not.

Q That wasn't what you testified on direct?

A I don't think so.

Q You didn't speak to Ernie Lombardi before September the 12th?

A Yes, I did.

Q You did?

Matter of fact, prior to that time, or on that time, you asked employees what this was about the Union, right?

A There was a rumor going around.

Q Right.

You knew who Ernie Lombardi was, didn't you?

A Yes.

Q You knew he was a delegate for 155?

A I think so, yes.

Q And you spoke to him on the 9th, right?

A That's true.

Q Let me ask you something about your lunch break policy, As of January 1st, 1974, what was your lunch break policy?

A Always standard. Have not changed.

Q What was that?

A It has always been a half hour for lunch and

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two 15 minute breaks, because I was getting flack, from the fellows saying they don't stop for lunch, and I said there is no way of me justifying this, they're out on the road. They have to be on their honor.

Unfortunately, we have found out otherwise.

Q You can't enforce this, right?

A No, there's no way I can enforce it.

Q No.

As a matter of fact, didn't you say that at various times employees took more than a half-hour?

A I would think so.

Q You had knowledge of this, right?

A I couldn't prove it, unless I actually followed the men.

Q I think you said on direct testimony that it was a half-hour and beyond.

A I assume that they took more than half, because if a man is on his own, I'm sure he's not watching a clock, at exactly 30 minutes he's going to report back to work.

Q As a matter of fact, it's impossible to enforce the coffee break times also, right?

A Of course not.

Q Well, I assume that your employees go out with

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a route that they have to do, right?

A That's correct.

Q And generally they're supposed to cover that route, that day?

A Yes, that's correct.

Q Wasn't it your practice, or your policy, that if an employee got into trouble on a particular job, that was not going to enable him to finish his route, he'd call you up?

A No, absolutely not.

Q That wasn't the case?

A Absolutely not.

Q What would happen with a route that wasn't covered?

A That wasn't covered?

Q A stop on the route that couldn't be covered, because there was an incredible swarm of locusts?

JUDGE DYER: You'll have to wait for the question, and then you wait for him to finish his answers.

Let's do it one at a time. Let's finish the question first.

MR. EISENBERG: Let me rephrase the question or repeat it if I can remember.

Q What would happen in a situation where an

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employee who had a certain number of stops to make, couldn't, you know, got into trouble at one of the stops, in the way that there was a particular place that was particularly infested and a lot more extra work had to be done?

What would happen in that situation?

A He's to put the time that's allotted to do the stop in.

When he gets back into the office, report it back to me, or to Mr. Guenther, and we will have someone go out that has the time to put into the account to straighten it out.

I believe I testified to that earlier.

There is no way to anticipate how much time is actually required in a difficult situation.

Q How long do you stay in the shop everyday?

A I'm in the shop every morning, every afternoon, periodically throughout the day.

Q What time do you come in and what time do you normally leave?

A Depends how busy the day is.

Q What's the average?

A Usually I'm in before 9:00 every morning, and I never leave before 5, 6, 7, 8, 10:00.

Q Do you stay after 5:00?

18 A Many times.

Q Your employees ever come in after 9:00?

A Certainly do.

Q Come in at 6:30?

A Sure.

Come right from the corner bar.

Q Wouldn't the reason for that be because they had a lot of work to do that day?

A No.

Q Never?

A Absolutely.

They're told to come back.

Q How do you know that?

A I'm telling them what to do.

Q How do you know?

A I give them the work and tell them what has to be done.

Q How do you know --

JUDGE DYER: Counsel, you're tripping over him.

MR. EISENBERG: I'm sorry.

Q Go ahead.

A I was a routeman.

I did route work. I know how much time goes into a stop.

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Q Right.

A So, when I give them work, they never are overburdened with work.

If they have difficulty, they come back and tell me, and I'll rearrange you.

Q I'm not saying they're overburdened with work, Mr. Giordano.

I'm just asking if you have any knowledge that sometimes --

A Any normal routeman can cover it without difficulty.

JUDGE DYER: Just a minute.

You're tripping over his question. Let him finish.

Q I'm asking if there ever comes a time when a routeman works past 5:00 o'clock out in the field?

A I would say possibly.

Q Has Mr. Clifford done that ever?

A Mr. Clifford has never been on time, so I assume he had to work past.

Q Didn't his time card that you looked at before, show him as a matter of fact it was read off, on various occasions he punched out at 6:30, or 7:00 or something like that?

A He was detaining the entire office waiting for

20 him to come back to do his day's work.

It was still a 8 hour shift. Regardless of when he started or finished it was 8 hours.

Q He'd sometimes come in later?

A Always late.

Q Didn't some of the other employees do that?

A On occasion.

Q Some of them also, as a matter of fact, didn't they also come in late, past 8:30?

A We worked until 10:00, 11:00 o'clock in the prime time of the year.

JUDGE DYER: When you say past 8:30, are you talking about morning?

Q 8:30 a. m.?

A Very few.

Q But it happens?

A On occasion of course it happens.

Q When they come in late they can normally get their work done for a route, if they stay out for an extra 15, 20 minutes to an hour?

A If they make their mind up to it, yes.

Q Right.

You testified, I believe, correct me if I'm wrong, that you questioned or talked to some of the employees concerning Local 155 or a union, because you knew that they were looking for things that the Company was just not able to provide them with.

A I would say one man, one specific individual approached me many times before that period; throughout the summer, in fact.

Q How did you know that, that these individuals that you talked to wanted a Union, because of that reason?

A I have no idea of the others.

I'm just talking about one individual person.

Q Who are you talking about?

A Mr. Raupp.

Q Let me just go over something with you, Mr. Giordano.

Do you recall which cards were shown to you on the 12th, by Mr. Casalino?

A I would have to assume all the cards that were dated the 12th or earlier.

I believe these were. And there were some others, also, that were taken out.

Q Excuse me.

A I believe there were some others that were removed.

Q That would be General Counsel's -- Respondent Union's Exhibit 1-B, K, J, I, H, G, F, C, E, D and one that looks like a two. John Michalicka. Did you see anybody signing those cards?

JUDGE DYER: Excuse me, to clear that up, Respondent Union's 1-L should be the card for John Michalicka.

MR. KONOWE: I'm not --

The question was asked --

JUDGE DYER: Pardon?

MR. KONOWE: The witness was asked a question, and I have an objection to that.

JUDGE DYER: What's your objection?

MR. KONOWE: The objection is that the authenticity of the cards has already been established, and the question is irrelevant as to whether he saw them signed. The cards themselves.

JUDGE DYER: What's the relevance of the question, Counsel?

MR. EISENBERG: Well, I'd like to establish where those cards were signed, if possible.

He might not know.

JUDGE DYER: I'll let you proceed.

Go ahead.

MR. EISENBERG: The issue of the probative --

JUDGE DYER: I said I'll let you go ahead.

MR. EISENBERG: Thank you.

Q Did you see them being signed?

A I don't believe so.

Q That course you're referring to in Farmingdale A&T, I believe, how would you send a person there?

What physical steps would you do to do it?

A Well, let me see. There are two courses.

One at Farmingdale, which I have never sent any of my men to, at the Farmingdale University.

I send our men to our association's training program.

Q Yes.

A And again you just call the name into Austin, when it's announced the course will be given, and if he says it's available, he'll put his name on the list and he will send us a letter.

Q Was that the course that you testified to with respect to Mr. Raupp?

A That would be, if it were available.

Not -- it's at Farmingdale, but it's not at the University.

Q Right.

A It's at American Legion Hall in Farmingdale.

Q It's not --

A They refer to it at Farmingdale University, but it's not.

It's given at a separate location.

Q Is there any payment necessary for somebody to take the course?

A Yes, there is.

Q Who pays that?

A I pay for it.

Q By check?

A Usually by check.

Q You testified, I believe, that during the course of -- at some point, I don't believe you were clear when, but at some point there were certain altercations that occurred between adherents of Local 522 and adherents of Local 155, is that not a fact?

A Yes.

Q When did that happen?

A I don't remember the exact dates, but it happened somewhere in the later part of September.

Q Pretty close to the end of September, right?

A I don't recollect the date.

Q Okay.

Did that create some kind of a problem for you?

A Most certainly did.

Q What kind of a problem did it create?

A If they were going to fight in the office, and I don't want them to say I instigated difficulty.

They were going to fight out in the street in front of the office, in the parking lot in the back, and in the local bar on the corner.

I said in the bar I don't care what you do, but don't fight on my property near me.

Q Did the altercation -- was the altercation or altercations you're referring to, did they occur in the morning?

A Usually in the afternoon.

Q About what time?

A As they start coming in, from 4:30 on.

Q Never in the morning?

A I wouldn't say never.

I don't recollect any in the morning.

Q What kind of altercations were they?

A Screaming, yelling, name calling. Grabbing, pushing, Problems.

Q It was upsetting your business routine, wasn't it?

A Certainly was.

Q When did you first become -- when did you first --

Withdrawn.

When in your mind did the possibility that Mr. Clifford may have put the signature on that route slip at the Suffolk County facility, when did you have a feeling that that might be the case?

A When that gentleman in charge of that complex gave me a call, that the man never showed up on the assigned date.

Q Do you remember when that was?

A I believe the Friday he was supposed to be there.

Q When did you talk to Clifford about this?

A On the following Monday.

Q Okay.

A In the afternoon.

After I had another service man check it out.

Q Do you remember the date this was, that you talked to him?

A The following Monday, whatever date it may have been.

Q What was the Friday date, do you remember?

A May I see the cards and I'll tell you the date.

Q Do you remember offhand?

A The 26th, there abouts, perhaps.

Q That was about the 28th that --

A Well --

Q The 29th that you talked to Tommy Clifford.

MR. KIMMELL: That's not right, Counsel.

MR. EISENBERG: That isn't right?

MR. KIMMELL: The 26th, I think.

JUDGE DYER: The 27th is a Friday, not the 26th. And Monday is the 30th.

Q (By Mr. Eisenberg) You spoke to him when, the 30th?

A On the Monday precding the day he was supposed to be there.

Q Was that the day you discharged him?

A I really don't remember.

Q How long --

A I don't recall.

Q What was the time period, between the time you actually fired him, and the time you spoke to him about this problem with the route slip?

A Very short.

Q Do you remember how many days?

A Within a few days.

Either the same day or the following day. It was a very close period.

MR. EISENBERG: No further cross.

JUDGE DYER: Any further examination?

MR. KIMMELL: No.

MR. KONOWE: No questions.

JUDGE DYER: Thank you.

(Whereupon, this witness was excused.)

MR. KIMMELL: We have no further witnesses.

JUDGE DYER: Do you rest?

MR. KIMMELL: Yes, sir.

JUDGE DYER: Mr. Konowe?

MR. KONOWE: No witnesses.

JUDGE DYER: Is there any rebuttal?

MR. EISENBERG: No rebuttal.

JUDGE DYER: Off the record.

(Discussion off the record.)

JUDGE DYER: On the record.

The parties have asked for time to file briefs, the maximum amount, and I have extended the time to file briefs until October 28th.

They are due in Washington that date, gentlemen.

The parties also indicated, at least two of them have indicated they wish to argue orally at this time.

General Counsel?

MR. EISENBERG: Thank you.

I'd like to make a short closing statement, Your Honor.

JUDGE DYER: All right.

MR. EISENBERG: I believe the evidence adduced at this hearing has shown that Local 155 commenced an organization drive and obtained a majority of employees, and thereafter demanded recognition from Respondent Employer.

With respect to the majority, and the -- in the unit admitted to be appropriate, General Counsel has established that 15 employees were in the unit as of the date of the demand of recognition, which General Counsel established as September the 9th.

Of those, nine employees had signed cards.

With respect to any issue that was raised or might be raised by -- as to the status of Frank Baudo, full-time New York City policeman, the evidence indicates that Baudo can only be classified as an irregular part-time employee, and therefore lacking a community of interest with the rest of the employees of Scientific Pest Control Corporation.

It's clear that he, himself, Baudo that is, decides when to accept or reject work. As a matter of fact, it's his personal choice.

Authorities cited in that regard is Imperial Management, Inc., doing business as

Royal Hearth Restaurant, 153 N.L.R.B. 1331. Callahan Cleveland, Inc., 120 N.L.R.B. 1355, and Columbia Music & Electric, 196 N.L.R.B. 388.

With respect to sons of Mr. Giordano, and any issue as to their inclusion in the unit, General Counsel would argue that Mark and Joseph Giordano should be excluded from the unit as sons of a parent or spouse with a control -- who's parents or -- parents of a control interest in Scientific Pest Control.

It's clear that the assets of Scientific Pest Control are owned solely by Mr. Giordano and his wife, and in fact the sons live with Mr. Giordano and his wife, and that they would be deemed to have an interest more closely allied to management than with the rest of the employees.

It's clear as a matter of fact it was admitted that Mr. Giordano, at least, on one and more occasions, interrogate his employees concerning their membership in and activities on behalf of Local 155.

He altered their working conditions.

It's uncontroverted that he threatened to close the shop when he was apprised of the Union activities.

He indirectly promised them benefits by telling one of the employees that he should have come to him for more money.

He discharged employee William Raupp on the 7th of September, admittedly he reinstated him at that time, a day or so later, but nonetheless the discharge was because of Raupp's activities, we have shown.

Thereafter, he entered into a contract with Local 522, having full knowledge of the interest of Local 155, and full knowledge of the demand for recognition by Local 155.

Yet, he executed an agreement with Local 522 of the Teamsters, which agreement contains Union security provisions.

General Counsel argues that the contract is unlawful, the Union security provisions are unlawfll, and accordingly, any employee discharged by the Employer is likewise a discriminatory discharge, and two employees were discharged by the Employer for precisely that reason, on October the 18th, Dennis Balz and William Raupp.

With respect to the Union's demand that these employees be discharged, that likewise is a violation of 8(b)(2) and 8(b)(1), as the contract and the

Union security provisions under which these employees were discharged, were unlawful under Section 8(a)(2) of the Act.

It's also clear, Your Honor, that Thomas Clifford was not discharged because of his various work indiscretions.

Apparently Mr. Clifford had -- there may have been some difficulty with Mr. Clifford's employment activities as far as the nature and the competence in which he carried them out, but apparently the Employer didn't feel it during the time, allegedly during the course of his employment that was going on, to do anything about it.

However, there were problems in the shop concerning arguments between Local 155 adherents and Local 522 adherents, and Clifford, when his car broke down for the last time, one of a number of occasions according to the Employer, then he discharged him at that point.

He didn't discharged him before that. It may very well be, and General Counsel argues that Clifford's activities and adherence to Local 155, which the Employer had full knowledge of, was in fact the cause of his discharge.

The transfer of employees Ba[illegible] and Raupp is further evidence, and would allow Your Honor to draw a similar inference, if Balz and Raupp were at St. James place, they would probably create problems for him. So he put them over to the Port Washington facility.

Such a transfer for reasons such like that are -- constitute a change in working conditions, and constitute a violation of Section 8(a)(3) of the Act.

General Counsel asks Your Honor to find and sustain all of the allegations of the Complaint not at this point admitted, including holding that a bargaining order is appropriate in this Case because of the serious and substantial unfair labor practice, including a threat to close, including an unlawful recognition, and including discriminatory discharge, as well as other 8(a)(1) threats, warnings and conduct.

JUDGE DYER: Let me ask you one question.

On the reinstatements of Balz and Raupp, is it the General Counsel's position that those reinstatements were full under the Act, so that if, since we have no question, at least in this Complaint, of the later discharge, that's out, am I being asked by the General Counsel for back pay for those interim periods, and that's about it?

MR. EISENBERG: That's correct, for those individuals.

Not with respect to Mr. Clifford.

JUDGE DYER: That's the only question I had.

MR. EISENBERG: Okay.

JUDGE DYER: You're not claiming that the reinstatement that was done at that time, was other than full reinstatement?

MR. EISENBERG: With respect to Mr. Raupp we are claiming that at the time his salary was reduced and thereafter stayed the same, we would want back pay for that entire period until the time he left employment for the last time, I believe it was December 7th.

JUDGE DYER: Fine.

That's all the questions about that.

Mr. Kimmell?

MR. KIMMELL: Your Honor, I think you have a number of issues which you're going to have to resolve.

I think the first one you have to start with, did Local 155 represent a majority of the employees at the time they made their bargaining demand.

Which the evidence here, which is not contradicted, was on September 9th, when Mr. Lombardi visited, Lombardi visited Mr. Giordano at his office, and at that point Mr. Lombardi did ask for recognition.

Okay. So that's -- you got to look at it as of September 9th.

Okay. The record shows, and we have it in evidence, that on that payroll, after you exclude the owners, supervisors, and even excluding the sons, you had 15 employees left, of which there is no question.

Now, the Union presented, General Counsel, I'm sorry, presented nine cards.

I think one card you must throw out, and that's the card of Tierney, who testified here that that is not his signature, and he did not sign it.

And it seems to me that proof -- that testimony by Mr. Tierney, who's no longer an employee of the Company, who's completely disinterested, must stand. The man came here to so testify.

So, I think you have to say that General Counsel produced 8 cards, 8 valid cards, which we stipulated to, and there's no question about, out of 15 people carried on the payroll at that time, which would presumptively give them a majority.

But we contend they didn't have a majority

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for the following reasons. Number one, the employee Mark Minter, whose card is counted here, actually quit that day.

Now, there's a little conflict in evidence as to exactly when he quit. I think his testimony was that he called his wife about 9:30 or 10:00 o'clock in the morning, and she told him that he had to go to work the next day at this Cable T.V. place, and that he then went back to the office and told Mr. Giordano that he was quitting.

Taking his testimony, would probably put it sometime around noon or before noon.

I think you can -- I think the evidence is that Mr. Lonbardi actually requested recognition at about 8:30 that morning.

So, I suppose in a highly technical sense Mr. Minter was still an employee at the precise moment that Mr. Lombardi was asking for recognition.

However, Mr. Minter had indicated before, in August, in late August, that he was quitting. He just didn't know the exact date that he was quitting.

I don't think that for the important purpose of determining a majority status, that his card should count, because he was for all intents and purposes he was no longer an employee.

He was still working because he hadn't quite got around to starting his new employment.

So that would reduce the Union's majority to 7 cards, if you don't include Minter, and of course you also have to take him off the eligible voters, so there would only be 14 left, which would give them 7 cards out of 14, which of course, although close, is not a majority.

We also think the Union didn't have a majority, because we think the name Frank Baudo should have been counted, which would have made 16 voters, or 15 voters, if you exclude Minter. In either case, the Union wouldn't have a majority.

Baudo had worked there and he continued to work there; the very next payroll week he was working there.

He started to work on the 11th of September, and he had worked several years before.

True, he was not a steady employee, but he was -- he worked when he could, when his schedule permitted it.

But it seems to me, there was enough regularity of employment that he should be counted as an employee.

Basically, during the early part of '74, for want of a better term, I think you can say he was on a leave of absence. But he did come back the very -- two days later, after the recognition request was made, and we think under the circumstances he should be counted on the payroll, which would mean that there, if you include Minter, there would be 16 people, and the Union had 8 cards including Minter, not a majority, or if you exclude Minter, there were 15 people, and the Union had 7 cards, also not a majority.

So, we say under either way, the Union did not represent a majority on the day that they asked for recognition, and indeed at no time represented a majority of these employees.

Furthermore, there is another point that I think my Co-Counsel will point out to you, that there's one or more duplications in these cards. That may have been signed within several days of each other.

Under those circumstances, how can you really divine which of the two Unions the worker wanted, with sufficient certainty to base a Gissell type of bargaining order?

If a man signs a card within a few days of each other for both Unions, how can you say which

Union he wants?

How can you know which Union he has designated?

He apparently will sign anything, and he's designated both of them.

This is just the type of situation the Gissell Case is talking about, that you want to avoid.

Of course they say it has to be a clear, unequivocal designation by the employee of the Union representative he wishes.

How can you say it's clear when he signs two cards within the space of several days.

I think my Co-Counsel would go into this more.

Now, we submit to begin with, there was no majority.

Second point, Mr. Lombardi, nevertheless, on the 9th, claims there is a majority, and the Employer who is unsophisticated in labor relations, says to him where are the cards, prove it to me, show it to me.

Lombardi says, and Mr. Giordano testifies, that Mr. Lombardi said I'm not going to show the cards, period.

Mr. Lombardi's testimony is a little different.

He says I won't show them to you, but I'll show them to some third person.

As far as he goes. Mr. Lombardi doesn't offer some third person, doesn't offer to arrange with a third person, doesn't offer anything.

I've got a majority and I'll show it to somebody. That's as far as it goes.

The Employer under those circumstances, I think would say you'd -- you'd have to say, has a good faith doubt about the Union's majority, and like the unsophisticated Employer he was, you'll forgive me, he goes and asks his employees whether they have signed, and a number tell him they did.

He's then presented in a few days with a set of cards, this time a new Union comes into the picture, the Teamsters, 522, and they tell him they represent a majority, they prove to him and give him cards, which clearly shows a majority, there's no question about that, if you check the cards against the payroll, you'll see there's a clear majority, there's no I'ves, ands or buts about it, and he then calls his attorney up, and his attorney says go ahead and give them recognition.

Now, under these circumstances, can you say that the Employer was really wrong?

He went with the Union which proved to him that they represented a majority.

The mere claim, the mere unsupported claim by a Union that they represented a majority, without more, shouldn't and doesn't prevent an Employer from going ahead, at his own risk, from negotiating a contract with another Union, who proves to him by good and valid proof that they do represent a majority.

I think an election perhaps would have been the best way to settle this matter, and indeed 155 did file for an election, which they then withdraw, when at the State Labor Board, the Employer offered to go for an election. That's their business.

Now, okay, after these events take place, the Employer proceeds to implement the contract.

He gives the people the raises, he gives them the holidays, and he also implements the Union security provision at the request of 522.

The men are let go, two men are let go. Now at that point he apparently engages new counsel who tells him it's pretty dangerous to do this in view of this, I suggest you take them back.

He says I can't take them back at Smithtown because there's going to be fights and problems, I'm going to get a strike and lord knows what else is going to happen, so he decides to put them back at Port Washington.

Now, the work as the testimony from the both sides is, the work was the same. It may have been a little less convenient for the men, okay.

I don't think that makes a violation of law.

I think there's justification that it would have lead to enough labor dispute that it justifies the relatively minor inconvenience to the two men involved.

Now, of course if the Employer's wrong, and the contract with 522 is illegal, I guess he owes them back pay for the difference, because it all hangs together.

On the other hand, if the contract with 522 was proper, then of course he was perfectly proper to let him go for failure to obey the Union security clause.

The other element of discussion on the part of Raupp that he cut his wages, I think the evidence is overwhelming.

It's admitted by Raupp himself that when he went to work there, he worked at $125 a week for five and a half days a week, five and a half days worked per week, when the busy season started he asked for more work, the Employer agreed, he needed him and he gave him more work that raised his salary.

When the busy season ended, he went back to where he was. Where's the discrimination?

He just paid him less, he just restored him to where he was before the busy season happened.

The fact that this took place at about the time of the Union agitation, is just happenstance. That's when the busy season ended.

I don'n think from those solitary facts you can say that anything an Employer does is discriminatorily motivated.

Return then to the dismissal of Clifford, which is the only other real issue involved in this Case.

I think the evidence is clear that this was a no-good employee, who wasn't particularly active in the Union. His own testimony is he never asked anybody to sign up, he never really did anything, he did sign a card for the Union.

And the fact that he signed for 155 was apparently known to Mr. Giordano. That circumstance by itself does not say to an Employer you may not fire the man, change his employment, carryon your business.

The man was admittedly a terrible worker. He came late, he was absent, he admits all this. He had terrible difficulty with his automobile, which he couldn't apparently solve, and then he's discovered on the 26th of September, three days before his dismissal, with an intervening weekend, that he falsified a signature from an important customer, the County of Suffolk.

A governmental body generally doesn't go for this sort of thing very much. Under all the circumstances he's let go.

Now, if the Employer was really discriminatorily motivated, why would he have picked Clifford?

Clifford of all the men who signed for 155, was apparently the man who did the least.

It was Balz, Raupp, who were the leaders.

The other men signed, DeMeo signed, Passantino signed, Nuzzi signed. These employees were not fired.

So, the only reason that I think, and the record I think, the preponderance shows that Clifford was fired, was because he was a poor worker, and the fact that he signed up for 155, doesn't make a case.

All it shows is that the Employer, that he had signed for 155, and the Employer apparently knew it. This doesn't mean to say that this was the motivation.

I think you have to weigh both sides, and I think when you look at the Company reasons, you must come to the conclusion that Clifford was let go because he was a totally unsatisfactory employee.

General Counsel's argument that he was unsatisfactory before, and we should have gotten rid of him before, just doesn't make too much sense, because it was in the middle of the season before. This was the end of the season. This was the time to let him go.

As a matter of fact, his discharge is not connected particularly with the Union organization.

It had all been established by then. 522 had been recognized, and the election petition had already been filed and withdrawn.

There was no reason for Mr. Giordano to dismiss Clifford on October 1st, that particular date, except that he was -- that was the date, that was the straw which broke the camel's back, when once again his car expires, and this time apparently permanently, and he wasn't able to come up with something.

The story that he had a rented car, it would be impossible for this worker to work with a rented car, at $25 a week allowance. It's obviously just an after thought on his part.

The final issue, under the circumstances of this Case, is the Gissell offer, order, appropriate.

I think the criteria laid down by the Supreme Court, which I'm sure the -- you know better than I do, perhaps, is that the activities of the Employer must be so all pervasive, so deep, and so thorough, these illegal activities, that a fair election would be impossible.

I don't think you have that here.

You have a, at the worse, taking General Counsel's evidence at, believing every bit of it, there was a couple of employees interrogated, whether -- are you members of the Union. Done in an unsophisticated honesty by the Employer, because he wanted to know whether or not employees, Mr. Giordano knows -- Mr. Lombardi's statement that he represented a majority was indeed true.

You also have a threat, or shall I put it, that the plant will close. It's peculiar, if this was really what the Employer was doing, that only one man was told this, and that's Raupp.

I think you have to wonder whether Raupp was really told this, or whether he just presumed it.

You also have a so-called change in conditions that the lunch hour was cut from an hour to a half hour. That's all manufactured, because there's a notice that's put into evidence that employees were told it's a half hour lunch, and Raupp signed it as well as the other employees.

So that -- that so-called change simply didn't take place.

So, what do you really have, when you really weigh all the evidence?

You have a few stray instances of interrogation.

I say, under the Supreme Court Gissell decision, that's hardly sufficient.

That's hardly all pervasive unfair labor practices to call for a bargaining order.

Particularly under the circumstances of this Case, where the Union didn't make known its majority, where indeed they didn't even have a majority, or at best, if you accept all what General Counsel says, the most slender of majorities, that under the circumstances, under no stretch of the imagination, should a Gissell type of order be the remedy.

At the worse, I think, even if you believe all of General Counsel's Case, I think at the worse what's called for here is a withdrawal of recognition from 522, until such time as an election is held. At the worse.

We don't believe that's indicated by these facts. But at the worse a Gissell is an unusual order that should only be used in the most onerous and the most terrible of circumstances.

That's hardly made out under the slender facts of this Case.

Now, therefore, we would ask you to dismiss the Complaint and we would freely admit on the record that there may have been some technical violations of Section 8(a)(1), maybe, if you so find, but that's all.

JUDGE DYER: Thank you.

Mr. Kinowe?

MR. KONOWE: If Your Honor pleases, while I intend to reserve most of the issues for a brief, I will just go into a few factors, rather than go -- reiterate the Employer's position, which is -- which is the position that Local 522 is taking.

The fact is that prior to the signing of the recognition agreement of September 12th, which is General Counsel's Exhibit 4, the testimony is uncontradicted that the Employer was shown the cards of a majority of its employees, and that it entered into the recignition agreement.

That on the 13th it signed a memorandum of agreement containing the terms to be incorporated into a more formal agreement, a settlement agreement, as General Counsel's Exhibit 6, and General Counsel's Exhibit 5 is the formal document that was executed on September 16th, 1974 and that the Union through Mr. Sam Casalino, at a meeting at the Employer's premises, had given the employees there assembled, all of the terms and conditions that were negotiated and agreed upon, and the testimony is uncontraverted that of some at least 15 employees, that only 4 employees had not -- had indicated that they had not signed for Local 522.

We have submitted our cards in evidence, and I think an examination of the cards together with the payroll will substantiate that indeed Local 522 had a majority of cards at the time when they made recognition and at the time when the contract was executed.

But more particularly, with respect to the majority status of Local 155, in addition to what the Employer has indicated, if Your Honor will look at General Counsel's Exhibit 2-E, you will note that a Ronald Page executed a -- an authorization card for Local 155, which 155 was counting in its majority, and then shortly thereafter Ronald Page also executed a -- an authorization card for Local 522, which is Respondent Union's Exhibit 1-K.

We think in light of the circumstances, that certainly that card under the Board's decision, should be not counted as evidence of the fact that the employee has not clearly and unequivocally designated which Union he wants to represent him.

And that that further would diminish Local 155's purported majority, to a very significant majority.

The balance of the issues we will reserve for our brief.

JUDGE DYER: Thank you.

All right, gentlemen, is there anything further to come before me at this time?

Hearing nothing further, the hearing is closed.

(Whereupon, the hearing closed at 3:40 o'clock p. m.)

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JD-654-75
Brooklyn, N Y

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

SCIENTIFIC PEST CONTROL CORPORATION

and

EXTERMINATORS, FUMIGATORS AND
TERMITE WORKERS, LOCAL 155, SERVICE
EMPLOYEES INTERNATIONAL UNION, AFL-CIO

and

LOCAL 522, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA,
Party to the Contract

Cases 29-CA-4236
29-CB-2058

LOCAL 522, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

and

EXTERMINATORS, FUMIGATORS AND TERMITE
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

and

SCIENTIFIC PEST CONTROL CORPORATION

Party to the Contract

Jack Eisenberg, Esq., of Brooklyn, N.Y., counsel for the General Counsel.

Leonard Kimmell, Esq., of Kimmell & Kimmell, of Melville, N.Y., for Respondent-Employer.

Milton N. Konowe, Esq., of the office of Charles Katz, Esq., of N.Y., for Respondent Local 522, International Brotherhood of Teamsters.

Allen S. Mathers, Esq., of Israelson & Streit, of New York, N.Y., and Patrick Carroll, on behalf of Local 155, SEIU, AFL-CIO, the Charging Party.

# DECISION

## Statement of the Case

JOHN M. DYER, Administrative Law Judge: Exterminators, Fumigators and Termite Workers, Local 155, Service Employees International Union, AFL-CIO, herein called Local 155, filed a charge in Case No. 29-CA-4236 against Scientific Pest Control Corporation, herein called the Company or Respondent-Company, on March 3, 1975, 1/ and on the same date filed the charge in Case No. 29-CB-2058 against Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called Local 522 or Respondent-Union.

On June 27, 1975, the Regional Director of Region 29 issued an Order consolidating cases, Complaint and Notice of Hearing in these two cases. The Complaint alleged that Respondent-Employer violated Sections 8(a)(1), (2) and (3) of the Act by actions it took during September and October and that Respondent-Union violated Sections 8(b)(1)(A) and (2).

In addition to the standard service and jurisdictional allegations, the complaint alleges that Respondent-Company interrogated and threatened its employees and discharged one employee because of the employee's adherence to Local 155 and after Local 155 achieved a majority in the appropriate unit Respondent-Company refused to recognize it, further interrogated its employees and recognized and signed a contract with Respondent-Union. It is alleged and the parties stipulate that pursuant to that contract Respondent-Union requested and Respondent-Company discharged two employees because they refused to become members of Respondent-Union pursuant to that contract. The complaint alleges that Respondent-Company attempted to destroy the majority status achieved by Local 155 and that the alleged violations of the Act are serious enough to warrant the entry of a bargaining order in favor of Local 155.

During the hearing in this matter held on September 22 and 23, 1975, in Brooklyn, New York, General Counsel deleted an allegation regarding the discharge of Anthony Nuzzi. Respondent-Company and Respondent-Union amended their answers to admit in addition to the jurisdiction and commerce information that the Respondent-Company and Respondent-Union executed a recognition agreement on September 12, and executed a collective-bargaining agreement effective from September 13, which required membership in good standing in the union. They further admitted that Respondent-Employer discharged William Raupp on September 7, and reinstated him on September 9, and discharged Thomas Clifford on October 1, and discharged William Raupp and Dennis Balz on October 18 and reinstated them on October 28 and 29 at a different location. Respondents denied that Local 155 had majority support on September 9, and that Respondent-Company knew it and that either of the Respondents had violated the Act.

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1/ Unless specifically stated otherwise all dates herein occurred in 1974.

The parties were afforded full opportunity to appear, to examine and cross-examine witnesses and they argued orally. The General Counsel has filed a memorandum of law on one point.

The essential question in this case is whether Local 155 had a majority and made a demand on Respondent-Company for recognition which foreclosed Respondent-Company's subsequent recognition of Local 522 and made such action and any actions taken thereunder unlawful under the Act. The September 7 interrogations and threats and discharge of Raupp are not basically disputed by Respondent-Company.

On the basis of all the evidence I have concluded that Local 155 did have a majority of employees in an appropriate unit and made such known to Respondent-Company prior to Respondent-Company's meeting and signing a contract with Respondent-Union and that both Respondent-Company's prior unfair labor practices in its interrogations, threats and discharge and its subsequent actions in recognizing Respondent Local 522 which did not represent an uncoerced majority of the company's employees and Local 522's actions in seeking the discharge of employees for not joining Local 522 violated the Act, and I will order appropriate remedial action.

On the entire record in this case including the exhibits and the testimony proffered, including my evaluation of the reliability of the witnesses based on the evidence they produced and their demeanor I make the following:

## Findings of Fact

### I. Commerce Findings and Union Status

Scientific Pest Control Corporation is a New York corporation with its principal place of business and office located in St. James, Suffolk County, New York, and with an additional location in Port Washington Nassau County, New York. Respondent is engaged in providing and performing insect and pest extermination and fumigation services for its customers and during the past year, which is representative of its operations, Respondent-Company bought more than $50,000 worth of pesticides, chemicals and other goods which had originated from directly outside the State of New York and which it bought from corporations engaged in business in New York.

Respondent-Company admits and I find that it is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

Respondent-Company and Respondent-Union admit and I find that Local 155 and Local 522 are each labor organizations within the meaning of Section 2(5) of the Act.

### II. The Unfair Labor Practices

### A. Background and Undisputed Facts

Respondent-Company is a closed corporation with Salvatore Giordano and his wife, each owning 50 percent of the stock. The Giordanos have two boys Mark and Joseph who are 15 and 17 years old, attend school and according to their father work on Saturdays and school holidays and other occasions when he feels it necessary and clean offices, trucks or whatever jobs he finds need to be done around the office.

About 75 percent of the company's business is in servicing private residences and the remainder is in servicing food handling plants, restaurants and other commercial or governmental establishments.

Most of the contracts are on a monthly service basis and the company has established routes and dispatches its servicemen or daily runs of 18 customers or so. On some accounts which had to be serviced early in the morning, the serviceman would make the stop before reporting to the office. One serviceman testified that prior to September he would take route cards for 2 or 3 days' work and only report back after finishing those routes. In September after Local 155 appeared on the scene Giordano required the servicemen to report in every day both in the morning and the evening.

Additionally the company has a tree spraying service which is most active in the growing season. Mr. Giordano testified that the heaviest part of the business starts in the spring and runs through August or September depending on the weather.

The regular business hours are from 8 a.m. to 5 p.m., with a half hour for lunch and two 15-minute breaks. Most employees were required to provide a serviceable automobile to be used on the routes and they were given a flat fee of $20 to $30 per week for the use of their car. Respondent had some trucks which were used by servicemen on different bases.

Most of the employees who started during 1974, started at $110 or $120 a week and were raised to $125 a week. They worked 5 days a week plus a half day on Saturday every other week.

The parties agreed that at Respondent-Company the appropriate unit consisted of all employees excluding office-clerical employees, guards, watchmen and supervisors. The payroll for both September 9 and 10 listed 15 such employees and additionally included three office-clericals whom the parties agreed should be excluded and Supervisor John Guenther. The payroll also listed Salvatore Giordano and his wife Mary A. Giordano, the two owners of the company's stock and Mark and Joseph Giordano, their sons.

Respondent-Company urged that Mark and Joseph Giordano should be included in the unit. However, as the children of the owners of the company and not being employed in the same way or manner as the other employees, they have no community of interest with the other employees and must be excluded.

Respondent also sought to include in the unit an individual named Frank Baudo who is a full-time New York City policeman and worked part-time for Respondent-Company on an irregular basis for several years. Because of his police duties Baudo had not worked for the company in 1974 until mid-September. His duties when employed were mainly on a "fill-in" basis. As an irregular part-time employee who was not employed at all in 1974 until mid-September, Baudo could not be considered as a proper member of the unit.

The remaining questions concerning the unit and the majority status of Local 155 will be considered *infra*.

Ernest Lombardi the organizer and secretary-treasurer of Local 155, testified that he first contacted two of Respondent-Company's employees Mike Passintino and Anthony Nuzzi on September 4 and asked whether they had any interest in organizing a union at their company. When they said they were interested, Lombardi explained the organizational procedure and they signed authorization cards for him.

Passintino and Nuzzi on the following day told William Raupp of their meeting with Lombardi and asked if he was interested in a union. He said he was and they told him Lombardi would contact him. He met Lombardi on the next day around noontime and signed a union authorization card. Lombardi gave him a number of authorization cards after Raupp agreed to do the inside organizing. Raupp spoke to.Clifford, Balz, Minter, De Meo, Michelicka, Vollano and Patrick Tierney concerning the union.

Thomas Clifford testified that on Saturday, January 7, before leaving on his route, Giordano asked if he had heard anything about union activity or anybody trying to bring in a union. Clifford said no, and Giordano told him that if he did to please let him know and Clifford agreed to do so.

As Clifford, who was driving a company truck, was returning from his route, he was met by Giordano who had him pull over. Giordano said he knew the men were attempting to start a union and asked Clifford why. Clifford replied that they needed more money and wanted more benefits. Giordano said that all they had to do was come to him. Clifford replied that Billy Raupp had gone to him a couple of times and that Giordano kept telling Raupp that he could not do anything and they would have to wait. Giordano said if they did join the union he would have to fire everybody and just keep his supervisors, and run the company from his house.

When Raupp finished his route work on Saturday, September 7, and was in the office working on the routecards, Giordano said he would like to see Raupp in his basement office. Giordano asked Raupp what the story was with his union. Raupp told Giordano they were bringing in a union and were looking for better benefits and better salary. Giordano said the only one he had to worry about was himself, that he did not blame them for going union and he would probably do the same thing if he was working for an employer and looking for a better salary. He told Raupp that he could always quit and get another job. Raupp replied he liked the work. Giordano told him he was being terminated and to leave the equipment in the garage and that he would not be able to go to the University as they had planned. According to Raupp Giordano pulled out Raupp's file and removed an application from it and tore it up along with what appeared to be a check. Giordano continued that he would most likely blacklist Raupp with all the other exterminators and Raupp probably would never get another job in an exterminating company.

Giordano said he would close up the shop if any union came in and get rid of all the regular service customers and service workers and just keep Melville, Guenther and Knox and work out of his basement. (Giordano had identified those he would keep as supervisors according to Clifford, supra.) Giordano asked Raupp who had brought the union in and Raupp replied no one. Giordano said somebody had to bring it in. Raupp said that the union had contacted the men and that he was the organizer and spoke to most of the men. Giordano asked if he had any cards from Local 155 and when Raupp pulled some out and showed them to Giordano, Giordano grabbed for them and put them in his pocket. Giordano told Raupp to take his car around back and empty out his chemicals and equipment. He added that if Raupp could clear up the union activity he could have his job back.

Raupp drove his car around to the garage where the chemicals were stored and emptied them out of his car. He left and called Lombardi, and met with him later that day. Raupp told Lombardi that one of the office-clericals told him that employee Vollano had spoken to Giordano about the union activity.

Lombardi set up an employee meeting to be held on Sunday, September 8, at a local tavern. At the meeting union authorization cards with the employee's name, address and the name of the company printed on them were passed out, and a number of cards were signed and dated by employees. The group agreed to meet with Lombardi at the company office on Monday morning, prior to going to work, so that Lombardi could take up with Giordano the question of Raupp's discharge.

Although Giordano testified that on Monday he told Lombardi that Raupp was not discharged, Giordano did not deny any of the statements or actions attributed to him by Raupp and Clifford as occurring on September 7, including Raupp's discharge. There being no contradiction of this testimony and it appearing that the testimony of these events by Raupp and Clifford is credible, I conclude and find that Respondent-Company by Giordano and in violation of Section 8(a)(3) and (1) of the Act discharged Raupp on September 7 and engaged in the interrogations and threats detailed above which I find were in violation of Section 8(a)(1) of the Act.

Giordano admitted that on Monday, September 9, after his meeting with Lombardi he asked four or five of his employees why they wanted to join the union. He testified that he possibly spoke to Raupp, Clifford and Balz, since;

> "Vaguely, they were the instigators. They're young kids, they don't know what's going on. They approached me several times for raises.
>
> We're going through a difficult time; finances weren't there."

Asked why he asked the men whether they were members of the union he answered:

"Well, truthfully, like any small businessman, I want to know why I wasn't first approached to see what the grievances were."

If there was anything wrong, they could come to speak to me, rather than want to become unionized. They would certainly have gotten more from me than with a union at that time.

But they were looking for things that were beyond my scope of providing.

Question: "Did you have any other reason to ask them if they had signed cards?

Answer: "No."

Raupp testified that after Giordano had asked the group in which he was present, whether they wanted the union, and the group replied that they were in favor of the union, Giordano said he would fix that, that the union would never get into his shop. This latter statement was not denied by Giordano, and I find that it is a threat in addition to his admitted interrogation of employees both of which I conclude and find were in violation of Section 8(a)(1) of the Act.

## B. Local 155's Actions

After Raupp told him of his discharge on September 7, Lombardi asked Raupp to set up a meeting for all the employees on Sunday, September 8. Authorization cards were distributed at this meeting to employees and an additional number of cards were signed and dated. Lombardi identified the card given to Patrick Tierney and stated that he saw Patrick Tierney sign and date the card and return it to him and further that he discussed the possible benefits of unionism with Tierney at the time.

Patrick Tierney, who had been a tree sprayer with the company, was called by Respondent-Company and shown the authorization card and said that it was not his signature and he did not remember the date being on it. He acknowledged going to the meeting and having the card presented to him but said he passed it back without signing it. He testified that he told Lombardi that he didn't want anything to do with the union and passed it back to him, he said the signature looks like his but that it was not his. Tierney said that he went to the meeting in order to get a free dinner and admitted that he had drunk several beers prior to going there. He left the company shortly thereafter and contacted Giordano a few weeks prior to the hearing in this matter, looking for a job. He was not given a job and was told by Giordano that there were a lot of people who were laid off and if things picked up they might be able to put him on.

During the initial part of the hearing Respondent offered to stipulate that Patrick Tierney's last day of employment was September 6 and that he was not actually employed or on the payroll on September 9 and 10, when Local 155's demand was made, despite the fact that his name appears on a payroll list for September 9 and 10, prepared by the company for this hearing. General Counsel refused to stipulate to this statement. Respondent thereafter made no attempt to demonstrate that Tierney was not employed on September 9 and 10, nor did it question Tierney in this regard. The General Counsel's witnesses testified that Tierney was still employed at that time and had been among the employees interrogated by Giordano.

The authorization card with Tierney's name is similar to the other authorization cards received in evidence from Local 155, in that they were all prepared with a printed name and address and the company's name, and after a date and a signature, there is an initial which looks like E. L. which I take to be, the initials of Ernest Lombardi attesting to that signature. These initials also appear after the signature on the authorization card bearing Tierney's name.

I credit the testimony of Lombardi that he saw Tierney sign this authorization card. I do not credit Tierney's denials that he did not do so. At the time of this hearing Tierney had applied for a job with the company and had been told he had a chance of being hired. His testimony denying that he had ever spoken to anybody about his testimony before coming to the hearing is part of the picture making up his testimony. Although this question is an old one it appears to demonstrate in this instance that Tierney is covering up and seeking to curry favor with Respondent by giving this testimony. I find that the authorization card was signed by Patrick Tierney while he was an employee of Respondent and is valid and authorizes Local 155 to bargain for him.

At the meeting on Sunday, Lombardi told all those present that he would speak with Giordano on the following Monday morning and he met with the employees outside Respondent's premises on Monday, September 9. When Giordano appeared between 8:30 and 9:00 a.m., Lombardi identified himself and told Giordano that one of the reasons he was there was because Giordano had fired Billy Raupp. Giordano invited Lombardi in and they went to the basement office.

According to Lombardi he told Giordano that he had the majority of his employees signed up and they had authorized Local 155 to represent them. Giordano replied that he did not believe him and he would like to see the cards. Lombardi said that if they got a disinterested third party such as a minister or priest to check the cards, he would be happy to have that done. Giordano said that if the union got in it was going to be pretty hard for him and that he would have to close up the place and get rid of the deadwood. Lombardi said that he and Giordano could get together and work out the issues and that they would do the right thing. Lombardi had known Giordano for a number of years since he had been in the exterminating business and they had talked on previous occasions. Giordano told Lombardi to have Patrick Carrol, the president of Local 155, call him and they would set up a tentative date and sit down and see what they could work out. Lombardi asked again about Billy Raupp and Giordano said that Raupp was back to work.

Lombardi testified that Giordano said he wanted an NLRB election and that he replied that he was ready to proceed with a vote whenever Giordano was ready and that he would get in touch with Carroll and discuss it.

Lombardi said this conversation with Giordano took between 45 minutes and an hour and that when they went outside some of the men were still waiting to see what the results of the conversation were and he told them that Raupp was reinstated and they could go on to work.

Giordano testified that he got to the office about 8:30 a.m. that morning and saw Lombardi out front with several employees, and that Lombardi said he wanted to speak with him and the men were not going to go back until he did. He agreed to meet with Lombardi and they went into his office. He testified that Lombardi told him the men wanted to become union members and he asked Lombardi if he had signed cards and Lombardi said he did not have to show them to him, that it was not required. Giordano replied that he would not recognize Lombardi and that was the end of the conversation.

Concerning Raupp, he said Lombardi mentioned it to him and he told Lombardi that Raupp was not fired and could go back to work. At that point they went upstairs and according to Giordano it was then around 10:00 a.m. Lombardi started talking to some of the men and he told Lombardi to get off the property or he would call a cop. Lombardi said he was right and left and the men went on to their jobs.

Giordano denied that anything was said about a priest or minister. Asked if Lombardi had a majority, Giordano stated that to his knowledge Lombardi did not say so. This testimony conflicts with Giordano's other testimony where he said he asked Lombardi to show him the cards to prove that he had a majority and Lombardi refused to do so. No such request would have been made if Lombardi had not said that Local 155 represented a majority and demanded recognition and bargaining. On the testimony I have to conclude that a demand for recognition and a claim of majority was made by Lombardi and I do not credit Giordano's denials that an offer to have a third party view and certify the authorization cards was not made.

Obviously from the time estimate given by Giordano a lot more was said in the meeting than that to which Giordano and Lombardi testified. Lombardi reported the conversation to Local 155's president, Carroll who immediately drafted a letter reiterating the majority claim and asking for negotiations and recognition which he mailed personally that same day to Respondent-Company. This letter was received in evidence with an attached postal receipt bearing number 455215 and a return receipt postal card showing that the document with that number was delivered to Respondent and was received and signed for by Joy Guarino one of Respondent's clerical employees on September 10.

Another letter was sent by Patrick Carroll to Giordano, dated September 11, which said that pursuant to their telephone conversation on September 9, where Giordano said he was willing to meet on September 18, 19 or 20, that Carroll wished to meet him on Thursday, September 19 at 4:00 p.m. A copy of this letter was received in evidence with an attached certified receipt bearing number 381265 and additionally had attached to it a return receipt card showing that it was delivered on September 13, and again was signed for at Respondent's premises by Joy Guarino.

Respondent offered in evidence the original letter dated Septmber 9, but it had attached to it an envelope addressed to Giordano bearing certified mail number 381265. On the basis of this Giordano claimed that he did not receive the September 9 letter until September 12 or 13.

It is obvious from the numbers used that Respondent has attached the envelope from Local 155's September 11 letter to Local 155's September 9 letter, despite Mr. Giordano's testimony concerning his office practices.

Giordano did not testify concerning the telephone call to which the September 11 letter refers, which set a time for a meeting between Carroll and Giordano.

It is possible that this envelope was attached by mistake, but in view of Giordano's testimony that he would attach an envelope immediately to the letter when he opened it, it is clear that this is an attempt to deny knowledge of the Union's majority and the demand, or the receipt of the confirming letter, based on his testimony as to what he normally does when a letter was received.

I do not credit Giordano's testimony since it is clear that this letter confirming the majority status and demanding negotiations was mailed on September 9 and received by Respondent on September 10. Certainly Respondent-Company was on notice that a claim of majority had been made together with a demand for recognition on September 9 and was reinforced by the letter it received on September 10.

Respondent raised another issue as to the employment of Mark Minter, whose name is on the payroll furnished by Respondent-Company. Minter prior to September 9, had sought employment with another company engaged in the business of cable television. Minter testified that he had been hired by Respondent-Company in April and worked until September 13 and had signed an authorization card for Bill Raupp after Raupp had spoken to him about the union. On Monday, September 9, Minter stated that Giordano spoke to a group of men in the office where they were picking up their route cards and individually asked the five or six men present if they were in favor of bringing in the union and that he among others replied that he was. Giordano then told them to get to work. He stated that Giordano and Lombardi then engaged in their conversation and it was not until around 9 or 9:30 a.m. when he called his wife to let her know what had happened, that she told him that the cable-TV company wanted him to report for work as soon as possible. He called the company and confirmed it and then waited to talk to Giordano about it. He saw Giordano after waiting about an hour and told Giordano that he had found another job and was going to stop working possibly as soon as the next day. After talking a while, he agreed, to work through the rest of that week.

Minter was shown a note which stated:

> "I, Mark Minter as of 9/9/74, leave this job of my own free will to gain further employment." Mark Minter.

The date in the body of the note shows that an 8 was written and a 9 written over it. Minter stated he started to write his birth date and then wrote over the 8 with the 9. At the top of the note, in a different handwriting, is printed the date of 8-27-74. That date and other writing on the page is the handwriting of Giordano who stated that he got the name of the company from Minter in an effort to find out when Minter had to go to work for them.

Minter testified that he had applied for the job with this cable TV company some 2 to 2 1/2 months previously but did not know until the morning of September 9 that he was going to receive a job there and that he would not have made an effort to leave his job with Respondent-Company until he was sure of the job at the other company.

Giordano testified that Minter gave him this letter of resignation on August 27, and that Minter had written an 8 intending to leave that same day, which would have been August 27. Giordano went on to say that Minter agreed to make the date effective on September 9. Giordano testified that on September 9, Minter came in and said he wanted to leave that day since his wife had told him that morning that he had a call and was to report to work and he then asked Minter to give him a few more days and Minter worked one or two more days.

If Minter had intended to resign on 8/27 and started to write it that way there would have been an 8/27 written down when the note was presented to Giordano. The document shows no sign of a 27 having been written on it.

I credit Minter's version of the conversation since the objective evidence of the note appears to bear him out, and Giordano's testimony is self-contradictory if Minter had actually given him the note on August 27 stating that he was planning to leave on September 9. That would have been approximately a 2 weeks' notice which would have allowed Giordano plenty of time to cover the situation and have somebody available to replace Minter on that day. Giordano's testimony which in effect is that Minter took him by surprise on the morning of September 9 and that he asked Minter to give him a few extra days obviously conflicts with saying he had a prior notice.

It is evident that once again Giordano is not being candid and it appears that another attempt was made to manipulate evidence to Respondent-Company's benefit.

I find that Mark Minter was an employee on September 9, and previously signed his authorization card and was intending to remain as an employee unless he was able to find a better job. Therefore at the time of the demand on

September 9, Minter was an employee who had authorized Local 155 to represent him and as such he should be counted as an employee and his authorization card counted.

When Lombardi met with Giordano and claimed he had a majority of the company's employees and demanded recognition, there were 15 employees in the unit including Minter and Tierney. Local 155 at that point had 9 authorization cards from these employees and therefore had a clear majority of the employees in an appropriate unit.

Respondent's claim that the authorization card signed by Ronald Page should not be counted since he signed an authorization card for Local 522 which is dated September 12. Respondent's claim that Page's authorization card for local 155 should not be counted because of dual unionism is at its simplest, bootstrapping. By September 12 all of the unfair labor practices found above had occurred and on that date, as will be detailed below, Respondent met with a representative of Respondent Local and signed a recognition agreement with it, compounding the above offenses with a violation of Section 8(a)(2). Respondent-Union's acceptance of such aid and its subsequent actions further violated the Act. Since Local 155, prior to the time of Page's signing a subsequent card, had a definite proven majority of the employees in the unit, Respondent-Company's obligation was at that point to deal with Local 155 and not take the course of action which it thereafter did. Therefore Respondent's claim has no foundation because of the coercive action taken before and after the Local 155 card was signed by Page.

### C. Respondent-Union's Activities And the Subsequent Events

Sam Casalino on September 9, was a business agent and the vice president of local 522. He testified that on September 9, he received a phone call from James Melville at Respondent-Company saying he would like to have a union in the shop. He asked Melville whether a union was in there and Melville replied no. They arranged to meet and on the following day Casalino took authorization cards with him when he met Melville outside the company's premises. Casalino gave Melville the cards and explained the procedure of organizing and told Melville when he had the cards signed to notify him and he would pick them up. He testified that around the 11th Melville notified him that he had the cards signed and he arranged to meet Melville before starting time on September 12.

Casalino states that when he got there early that morning Melville handed him a group of cards and he saw he had a majority and went into the office and spoke to Giordano. He testified that Giordano listened to him and he showed Giordano the authorization cards and told him the next step was to sign a stipulation that Giordano would agree to sit down and negotiate in good faith with Local 522. Giordano signed the proffered recognition agreement and on the following day he met with Giordano and went over a sample contract and they signed a memorandum of agreement on the contract terms. This handwritten memorandum was then put into legal language and a typed form which was signed by Giordano for Respondent-Company on September 16, being effective from September 13.

Giordano testified that Jim Melville told him he was talking to a union and that he wanted some security. Giordano contacted his attorney who told him not to make any decisions until somebody showed him they represented the majority in the shop. Thereafter Casalino and Melville came in to speak to him and told him that the men wanted to be unionized and presented him with some 7 to 9 authorization cards. He contacted his attorney who told him that since there was a majority he could go ahead and sign the agreement. He agreed that thereafter he signed a formal contract which provided certain things for the men.

Giordano identified 10 authorization cards as those shown to him on September 12. The 10 authorization cards all bear the date of September 12, 1974. An eleventh card dated September 16, 1974 is signed by employee Joseph Monti, and is too late to be considered towards Local 522's status.

Considering the 10 cards which Giordano testified Casalino presented to him on September 12, two of the cards are purportedly signed by Giordano's sons Mark and Joseph Giordano, on that date. There would seem to be some question that they were present that morning to sign cards when they were normally at school, but in any event they can not be counted since they are the children of the owners of the company and as stated previously cannot be considered as unit employees.

Another card bears the purported signature of Frank Baudo the irregular part-time employee whom I have already found was not a proper member of the unit.

Also included in the group of cards is one purportedly signed by Ronald Page. Since I found that his authorization card for Local 155 was legitimate, I cannot give effect to this purported designation of Local 522 and accordingly it could not be considered as any evidence of Local 522's status.

We have not been told that anyone other than Minter had by September 12 said he was leaving the company and in the absence of any other evidence, I can only presume that on September 12, the appropriate unit consisted of 14 employees.

Not even considering the coerciveness of the unfair labor practices on the unit employees and what effect such law violations may have had on their signing authorization cards for Local 522, it is clear that Local 522 did not represent a majority in an appropriate unit, on September 12, much less an uncoerced one.

Giordano testified that Melville later told him Casalino was coming to explain the contract to the employees and a meeting was set up and the men were instructed to be present in the main office on the morning of Monday, September 18. At that meeting, Casalino, after being introduced, went through the contract terms and explained them to the employees asking whether all the employees had signed up for Local 522. Some of the men indicated that they had not and Casalino explained one of the contract terms by which the employees had 30 days in which to join the union or they could be discharged.

It was stipulated by Respondent-Company and Respondent-Union that on and after September 13, Respondent-Company deducted monies from its employees' wages as a condition of their employment and paid such monies to Respondent-Union.

On October 18, Local 522 by its secretary-treasurer wrote to Respondent-Company requesting that three employees Raupp, Balz and De Meo be terminated no later than October 21, unless they had joined Local 522 and paid the requisite amounts by that date. Giordano testified that he gave Balz and Raupp another opportunity to sign authorization cards for Local 522 and they refused and he dismissed them, on October 18.

Thereafter on October 23, Giordano wrote letters to Balz and Raupp telling them to report back to work. Balz was to report on Monday, October 28, and Raupp on Tuesday, October 29, at the company's other location in Port Washington. The letter stated that their work and rate of pay would remain the same. Balz and Raupp reported for work at that location on those dates.

Giordano testified that he had Balz and Raupp work out of the Port Washington office because there was bad feeling between the two groups of union adherents which had almost led to fist fights at the St. James office. Giordano testified that he did not want any harm to come to any of the employees and in order to avoid a confrontation, had Balz and Raupp work from his other location which he testified was almost as convenient as working out of the St. James office.

Balz and Raupp later left Respondent-Company's employ but only the discharges enumerated up to this time are claimed by General Counsel as being violative of the Act.

Although contending that the reinstatement to the Port Washington office was an effort to keep Local 155 adherents segregated from the other employees, General Counsel makes no contention that the reinstatement was other than full reinstatement for both Balz and Raupp, with the exception that as General Counsel alleged, Raupp's take-home wages were lowered by Giordano around September 9 or 10. This allegation will be considered infra.

With the finding and conclusion that Respondent-Company was operating at its peril when it refused to recognize Local 155, since Local 155 had a majority on September 9 and had made a demand which the company understood, it is clear that Respondent-Company's subsequent recognition and signing of a contract with Respondent-Union 522 was invalid and in violation of Respondent-Company employees' Section 7 rights. I conclude and find that, Respondent-Company independently violated Section 8(a)(1) and (2) of the Act by recognizing and bargaining with Respondent Local 522 which did not represent an uncoerced majority of its employees and such act was in derogation of its obligation to Local 155. Therefore the contract between Respondent-Union and Respondent-Company was not lawful and any actions taken thereunder are likewise unlawful and invalid. Accordingly the discharges of Balz and Raupp pursuant to the contract and the attempt to discharge De Meo pursuant to the contract are all in violation of Sections 8(a)(1) (2) and (3) and 8(b)(1)(A) and (2) of the Act and I so conclude and find.

The circumstances surrounding the recognition and negotiation of the contract with Local 522 are to say the least, highly suspicious considering the fact that Melville the apparent instigator of Local 522 was identified at least by one of the employees as a foreman and further noting at one point that Giordano referred to his three supervisors and by another account calling Melville one of his faithful employees whom he would keep on if he found it necessary to lay off all the employees and consolidate his business to his home basement. Testimony concerning the supposed signing of these authorization cards by September 11, when the cards are dated on the 12th and contains the signatures, of among others, Giordano's 15 and 17 year old sons and the immediate signing of a contract on the following day, conveys a message of blinding speed with which Giordano contracted with Local 522, while he had previously displayed severe abhorrence to recognizing or bargaining in any way with Local 155 to the extent of discharging Raupp and making severe threats regarding the future of the business and the employees if he was faced with recognizing local 155.

Considering also the letter to Giordano which recounted an agreement between Giordano and Carol to meet in latter September to discuss the situation, it is clear that Giordano acted with consummate haste in apparently selecting a union for his employees and contracting with it to defeat the efforts of his employees in choosing Local 155 as their bargaining representative.

## D. Raupp's Reduction and Clifford's Termination

Raupp testified he started to work for Respondent in November 1973, at a salary of $110 a week and was moved up to $125 a week. In March 1974, after conferring with Giordano, Raupp arranged to work each Saturday instead of every other Saturday for a salary of $150 a week. At that time he was using a company truck about 90 percent of the time, with Giordano maintaining the vehicle. On the occasions he used his Volkswagon, Giordano paid for his gasoline and repairs and did not give him the weekly car allowance other employees received.

On either September 10 or 11 Giordano handed Raupp a receipt for work done on his Volkswagon and said he wanted reimbursement for the repairs Giordano had paid. Raupp refused saying that he was using the car for service work and was not getting any extra pay for the use of his car but was merely being paid a flat salary of $150. Giordano said he was going to cut his salary back to $125 a week and Raupp would be working every other Saturday instead of his present schedule and he would be paid $25 per week for gasoline and expenses and Raupp would not be using a company vehicle anymore. Raupp protested saying he could not understand being cut back on his work just because he was involved in union activity.

Giordano testified that he increased Raupp's work schedule because of the extra work in the Spring. Raupp said the increase was not because of increased work but because one of the servicemen had left and he was helping out on another route, and that the increase normally caused by termite work does not begin until April.

Giordano said he cut back on Raupp because the busy season was ending and Raupp had said he did not want to work that schedule anymore but wanted to work a normal schedule like the other men.

These changes in Raupp's employment conditions coming so closely upon Giordano's September 7 discharge of Raupp for union activities and Giordano's knowledge that Raupp was an "instigator" coupled with Giordano's undenied antiunion actions and sentiments and his dissembling and untruthfulness in some testimony leads me to credit Raupp's version of this incident and find that the cutback was a retaliative move on the part of Giordano because of Raupp's union activities.

I conclude and find that the extra work was taken from Raupp and that he did suffer a reduction in his take-home pay since he had been using a company vehicle part of the time without any expense to him and that Raupp had been taking care of his gasoline fees and some other repair work when he was using his own vehicle.

It is not clear from the state of the record at the present time just how much work Raupp did on Saturday since Giordano testified that Raupp only worked a few hours each Saturday.

Being reduced from $150 a week with use of a company van and having his actual car expenses paid when using his car; to $125 a week with a flat car expense of $25.00 per week added probably occasioned some loss to Raupp. It will be necessary to determine the actual amount of loss in this reduction in the compliance stage of this case.

Giordano testified that Clifford was fired because, he did not have a proper automobile, despite being warned on a number of occasions, that he was undependable in showing up for work and was habitually late and that Clifford had falsified a job order record. Giordano said that the heavy season was about over and Clifford was going to be laid off as he was cutting the routes down from 10 to 7. He said that the last straw was when Clifford's car broke down completely and he did not have a vehicle to use.

Clifford testified that he started to work for Respondent-Company in January 1974. During cross-examination he changed that date to March 1974. As noted above he testified concerning 8(a)(1) interrogations and threats made by Giordano to him on Saturday, September 7. Clifford joined the union and talked to some of the employees about the advisability of having a union. On the day he was discharged his car broke down and Giordano came to the location, picked up the chemicals and equipment and took them to the office telling Clifford that if he had a car the following day he could work. Clifford said it was impossible for him to get a car the following day, but that he got a car on the day after that, and asked Giordano if he could return to work and Giordano said no.

During cross-examination Clifford said he had a 67 Chevrolet Impala, and admitted that after starting work in March it broke down during the first week of April for one day and was repaired. Clifford was not sure whether the car next broke down during the week of April 23, but agreed that it was possible. He agreed that the car may have been broken down for about a day and a half around May 21. He did not believe that it was broken down in the latter part of May or June. The car again broke down and was out of service a full week in the beginning of August. He agreed that Giordano told him to get his car fixed and that he would loan him a company truck. After using the company truck for about a month, Giordano told him it needed service and according to Giordano the truck was taken in for repairs and it was found that the truck had been run with practically no oil and it needed a complete engine overhaul which cost over $1000.

Clifford admitted that he came in late many times but said that Giordano did not complain every time although he let Clifford know that he knew Clifford was late. .Clifford admitted that sometime in July, Giordano told him that if he did not shape up and stop the absenteeism and lateness, he was going to be fired. His lateness and absenteeism continued and in August and September Clifford was late most of the days of each week according to the timecards.

Clifford denied that his car broke down again on September 10 but said that it did break down around September 24 and on September 30 it quit running and was beyond repair. He said that the car he procured on November 2 was a rented car.

On September 26, Clifford was supposed to service the Suffolk County Department of Health early in the morning. He would prepare a receipt form showing what had been done and also indicate on a running account card, what the condition of the premises was and both were to be signed by someone at the premises. On that particular day, according to Clifford , it was impossible to use pesticides because there were babies already in the building. He stated he did not get a signature on the running account card since he did nothing at the premises but he did note the condition of the premises as good. He stated he did not turn in a receipt form but then was shown a copy of a receipt form on which was written two things "Treated Prem" and "Please call office for another day." At the bottom is written the name "E. J. Kriedmaker (R H)." On the running account card for this customer is a signed named which appears to be similar in all respects including the initials after the name.

Giordano testified he would normally permit a serviceman to make early stops directly from his home. In regard to this customer, Clifford turned in the running account card without a signature but with the notation "good" and he noted the omission and underlined it. He stated that on the following workday he received a call from the health center asking why the service man had not shown up and that he replied they had a signed receipt showing the man had been there. He then sent another serviceman to the health center with this signed receipt and received a note from Kriedmaker saying that the serviceman had not been there on September 26. Giordano then called Kriedmaker and asked if he was certain no one had been there and Kriedmaker said he was. Giordano asked him to confirm it in writing and Kriedmaker's letter states that according to his records the serviceman was not there on the 26th and the signature on the card was not in his handwriting or that of his assistant.

Giordano then told Clifford that the individual at the health center said Clifford had not been there. Clifford said he had been there and no one was around and that someone signed the slip and he thought it was a secretary. Giordano told Clifford that if such a thing happened again he would be discharged, that Clifford was lax in his work and had not told him that he was going out there to begin with and had come in at 10:00 a.m. on the 26th, and this supposed service call was supposed to account for the 2-hour lapse.

Since there is a similar signature with initials, there is a question of whether Clifford sought to deceive, and the evidence is not clear cut.

There seems to be no question but that Clifford was not a punctual employee and had been specifically warned prior to the advent of Local 155 that continued absenteeism and lateness would lead to his discharge. It is also clear that Clifford had been told that he needed a serviceable car for his work and had been so notified on several occasions, and had been permitted to use a company truck when his car was broken down. It is certainly true that he did not provide a reliable vehicle which occasioned problems for Respondent in servicing its accounts when Clifford was unable to complete his assigned task. When Clifford's car finally broke down Giordano told him to have another car by the following day and he could continue to work. Clifford did not do so but says he had a rented car on the second day. Obviously a commercially rented car would eat up most of the pay for the job which would make such a venture untenable. Further Giordano said he had to notify his insurance company as to what cars were being used by the servicemen in order to continue a liability floater policy on them. Giordano said that Clifford on November 2 told him he was going to get a car and denied that Clifford said he had a car or a rented car.

Although there may be some suspicion that because of Local 155's appearance and a probable identification of Clifford with it Giordano was happy to terminate Clifford, it is clear that under all the circumstances present here, that Clifford was terminated for not having a serviceable car to be used in his job and for continually violating instructions to be punctual. Under these circumstances, I cannot find that Clifford was discharged in violation of Section 8(a)(1) and (3) of the Act and will recommend dismissal of this allegation of the complaint.

## Summary

Respondent in its oral argument stated that a bargaining order should not be entered to remedy any violations found in this case, but urged that if anything were done, that an election be ordered. However the violations of the Act which took place in this case including threats of discharge, threats to close the plant, interrogations, the discharge of Raupp for bringing in the union, refusal of Respondent to recognize Local 155 but instead recognizing Local 522 which did not have an uncoerced majority over the outstanding claim and majority status of Local 155, make it clear that the majority status of Local 155 has probably been dissipated by Respondent's unfair labor practices. It would be futile at this point to try to restore the status quo ante by ordering an election held between these two unions, since one union had been favored unlawfully by being granted recognition and a contract in violation of the Act. Therefore I find that the only possible remedy for this situation is to negate Local 522's contract and grant a bargaining order to Local 155. See Ludwig Fish & Produce Inc., 220 NLRB No. 160

The factual situation in this case is similar to that in Sturgeon Electric Co., 166 NLRB 210. This case was further refined by the Board at 181 NLRB 157. In Sturgeon and in C. H. Heist Corp., 186 NLRB 355, the Board found an 8(a)(5) violation in addition to the 8(a)(1) and (2) violations. There was no allegation of 8(a)(5) here but the factual situation was even more egregious with the 8(a)(3) and 8(b)(1)(A) and (2) violations which occurred.

Therefore an order dismissing the 8(a)(3) allegation as to Thomas Clifford, but finding all of the other violations alleged will be entered and appropriate remedial action ordered.

## III. The Effect of the Unfair Labor Practices Upon Commerce

The activities of Respondents set forth in section II, above, and therein found to constitute unfair labor practices in violation of Sections 8(a)(1), (2), (3) and 8(b)(1)(A) and (2) of the Act, occurring in connnection with Respondents' business operations as set forth above in section I, have a close, intimate and substantial relationship to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

## IV. The Remedy

Having found that Respondents engaged in the unfair labor practices set forth above, I recommend that they cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act as follows:

Having found that the Respondent-Company and Respondent Local 522 executed a collective-bargaining agreement containing a union-security provision at a time when another union, Local 155, was the majority representative of an appropriate unit of the company's employeees, it is ordered that Respondents cease performing  enforcing or giving effect to the agreement between them dated September 16, 1974, and jointly and severally reimburse all Respondent-Company employees, for money paid by them or deducted from their wages for initiation fees, dues, assessments or other obligations of membership in local 522.

Also having found that Respondent-Company discharged William Raupp on September 7, 1974 and reinstated him on September 9, 1974 and discharged Raupp and Dennis Balz on October 18, 1974 at the request of Respondent-Union because of their nonmembership in Respondent-Union and that Respondent-Company reinstated Balz on October 28, 1974 and Raupp on October 29, 1974, it is ordered that Respondents jointly and severally make Balz and Raupp whole for the loss of pay they suffered by reason of their October discharges, less any interim earnings they may have had.

Having further found that Respondent-Company reduced Raupp's earnings on and after September 10 or 11, 1974 because of his union activities as found *supra*, it is ordered that Respondent-Company make Raupp whole for such loss.

Backpay and restitution of fees etc. is to be computed on a quarterly basis as in *F. W. Woolworth Company* 90 NLRB 289. Interest in the amount of 6 percent is to be added to the backpay and to the amounts paid by the employees and/or deducted from their wages which is to be refunded, as in *Isis Plumbing & Heating Co.*, 138 NLRB 716 as further amplified in *Seafarers International Union of North America, Great Lakes District* 138 NLRB 1142. It is further ordered that the Respondents make available to the Board, upon request, payroll membership lists and all other records necessary to facilitate checking the amounts due the employees.

As a further necessary remedy it is ordered that Respondent Local 522 cease and desist from causing Respondent-Employer to discriminate against employees in violation of Section 8(a)(3) by entering into and maintaining an agreement which conditions employment with Respondent-Employer on membership in Respondent Local 522 at a time when it was not the representative of an uncoerced majority of these employees, and order Respondent-Company to cease and desist from assisting the Respondent-Union in violation of Section 8(a)(2) by entering into a contract with it unless and until it is certified as the representative of its employees.

Having also found that Respondent-Company sought to undermine the Union's majority by interrogating employees, by threats to discharge employees to curtail or terminate the business, to make working conditions more arduous or to grant undisclosed benefits if the employees abandoned the union, and having found that Respondent rejected the principle of collective bargaining and acted to avoid collective bargaining and has by all the described actions invaded its employees' rights under the Act as set forth in section II, above, I am of the opinion that Respondent-Company may commit further unfair labor practices, having by its actions detailed herein shown its proclivity for so doing. Since it is part of the purpose of the Act to prevent the commission of unfair labor practices, I recommend that Respondent be placed under a broad enjoinder to cease and desist from in this or any other manner infringing upon the rights guaranteed its employees by the Act. On the basis of the foregoing findings and the entire record, I make the following:

## Conclusions of Law

1. Respondent-Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Local 155 and Local 522 are each labor organizations within the meaning of Section 2(5) of the Act.

3. Respondent-Company violated Section 8(a)(1) of the Act by unlawful interrogation, by threatening employees with loss of their jobs and with curtailment or closing of the business and with making working conditions more arduous and by promising them unspecified benefits if they refrained from assisting Local 155.

4. Respondent-Company violated Sections 8(a)(3) and (1) of the Act by the September 7 and October 18, 1974 terminations of William Raupp and the reduction in his pay on and after September 11, 1974 and by the October 18, 1974 termination of Dennis Balz.

5. Respondent-Union violated Sections 8(b)(1)(A) and (2) of the Act by requesting and demanding the October 18, 1974 discharges of William Raupp and Dennis Balz.

6. Respondent-Company violated Sections 8(a)(1), (2) and (3) of the Act by recognizing Respondent-Union as the collective-bargaining representative of its employees on September 12, 1974 and thereafter entering into and enforcing a contract with Respondent-Union.

7. Respondent-Union violated Sections 8(b)(1)(A) and (2) of the Act by accepting recognition as the collective-bargaining representative of Respondent-Company's employees when it did not represent an uncoerced majority of said employees and further by entering into and enforcing a contract with Respondent-Company.

## ORDER [2]

Upon the basis of the foregoing findings of fact and conclusions of law and the entire record in this case considered as a whole, it is ordered that:

A. Respondent-Company, Scientific Pest Control Corporation, its officers, agents, successors and assigns, shall:

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[2] In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

1. Cease and desist from:

(a) Unlawfully interrogating employees regarding their union activities and desires.

(b) Threatening to discharge its employees and/or curtail or close its business or make working conditions more arduous if the employees joined or supported Local 155.

(c) Promising unspecified benefits if its employees would not join or support Local 155.

(d) Discharging its employees and/or reduci[illegible] pay in order to discourage employees from joining or supporting Loc[illegible].

(e) Assisting or contributing support to Respondent-Union, Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America or any other labor organization, and from otherwise interfering with the representation of its employees through a labor organization of their own choosing, by recognizing such labor organization as the exclusive representative of any of its employees for the purpose of collective bargaining at a time when another union represents the majority of its employees and Local 522 does not represent an uncoerced majority of the employees in an appropriate unit.

(f) Giving effect to, or in any manner enforcing, the collective-bargaining agreement executed with Local 522 on September 16, 1974 and effective from September 13, 1974 or to any modification, extension, renewal, or supplement thereto, or any superseding agreements, or to checkoff authorization cards executed pursuant to such agreements, unless and until said labor organization has been certified by the Board as the exclusive bargaining representative of such employees; provided, however, nothing herein shall require Respondent-Company to vary or abandon any wage, hour, seniority, or other substantive features of its relations with its employees which have been established in the performance of such agreements or to prejudice the assertion by employees of any rights they may have thereunder.

(g) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement in conformity with Section 8(a)(3) of the Act, as amended.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Withdraw and withhold all recognition from Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the representative of its employees for the purpose of collective bargaining unless and until said labor organization has been duly certified by the Board as the exclusive representative of such employees.

(b) Jointly and severally with Respondent-Union, reimburse all present and former employees who became members of Respondent-Union on and after September 12, 1974, the date of the execution of a recognition agreement between Respondent-Company and Respondent-Union for monies paid by them or deducted from their earnings for initiation fees, dues, assessments, or other obligations of membership in Respondent-Union, together with interest at the rate of 6 percent per annum, in the manner set forth in the section of this Decision entitled "The Remedy."

(c) Upon request, bargain collectively with Exterminators, Fumigators and Termite Workers, Local 155, Service Employees International Union, AFL-CIO as the exclusive representative of the employees in Respondent-Company's unit of:

> All employees of Respondent-Company, exclusive of office-clerical employees, guards, watchmen and all supervisors.

And if an understanding is reached, embody such understanding in a signed agreement.

(d) Jointly and severally with Respondent-Union make William Raupp and Dennis Balz whole for the losses of pay they suffered by reason of their October 18, discharges, as provided in that Section of this Decision entitled "The Remedy."

(e) Make William Raupp whole for the loss of pay he suffered by reason of Respondent-Company's reduction of his renumeration as provided in that section of this Decision entitled "The Remedy."

(f) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of reimbursement due under the terms of this Order.

(g) Post at its St. James and Port Washington places of business copies of the attached notices marked "Appendix A" and "Appendix B." 3/ Copies of said notices, to be furnished by the Regional Director for Region 29, after being signed by the appropriate representatives, shall be posted by Respondent-Company immediately after receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to its employees are customarily posted. Reasonable steps shall be taken by Respondent-Company to insure that said notices are not altered, defaced, or covered by any other material.

(h) Mail to the Regional Director for Region 29 copies of the attached notice marked "Appendix A" for posting by the Respondent-Union. Copies of said notice, to be furnished by said Regional Director, after being duly signed by the representatives of Respondent-Company shall be forthwith returned to said Regional Director for such posting.

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3/ In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall be changed to read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

(i) Notify the Regional Director for Region 29, in writing, within 20 days from the date of this Decision and Order, what steps the Respondent-Company has taken to comply herewith.

B. The Respondent-Union, Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, its officers, agents and representatives, shall:

1. Cease and desist from:

(a) Acting as the collective-bargaining representative of the employees of Respondent-Company in the unit heretofore found appropriate for the purpose of dealing with said Respondent-Company concerning rates of pay, wages, hours of employment, or other terms or conditions of employment, unless and until such labor organization shall have been certified by the Board as the exclusive representative of such employees.

(b) Performing, enforcing, or giving effect to its collective-bargaining agreement of September 16, 1974 with Scientific Pest Control Corporation or entering into or enforcing any extension, renewal, modification, or supplement thereof, or any superseding collective-bargaining agreement with Respondent-Company.

(c) Causing or attempting to cause Respondent-Company to discriminate against employees in violation of Section 8(a)(3) of the Act by entering into or maintaining any agreement with Respondent-Company at a time it is not the representative of an uncoerced majority of these employees, which conditions employment on membership in Respondent-Union, or in any other manner causing or attempting to cause Respondent-Company to discriminate against any employee in violation of Section 8(a)(3) of the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Jointly and severally with the Respondent-Company reimburse those employees who became members of Respondent-Union after execution of the recognition agreement of September 12, 1974, for moneys paid by them or deducted from their earnings for inition fees, dues, assessments, or other obligations of membership in Respondent-Union, and jointly and severally with Respondent-Company make whole the employees listed in that section of the Board's Decision and Order entitled "The Remedy" for any loss of pay they may have suffered by reason of the discrimination practiced against them, together with interest at the rate of 6 percent per annum, in the method set forth in the section of the Decision entitled "The Remedy."

(b) Post at its business office and meeting hall copies of the attached notices marked "Appendix A" and "Appendix B." 4/ Copies of said notices, to be furnished by the Regional Director for Region 29, after being duly signed

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4/ See footnote 3, *supra*.

by the appropriate representatives, shall be posted by the Respondent-Union immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to its members are customarily posted. Reasonable steps shall be taken by the Respondent-Union to insure that said notices are not altered, defaced, or covered by any other material.

(c) Mail to the Regional Director for Region 29 signed copies of the attached notice, marked "Appendix B" for posting by Scientific Pest Control Corporation. Copies of said notice, to be furnished by said Regional Director, after being duly signed by the Respondent-Union's representative, shall be forthwith returned to said Regional Director for such posting.

(d) Notify the Regional Director for Region 29, in writing, within 20 days from the date of this Decision and Order, what steps the Respondent-Union has taken to comply herewith.

It is further ordered that the allegation concerning the alleged violation of the Act by the discharge of Thomas Clifford be dismissed.

Dated at Washington, D.C.
November 20, 1975

John M. Dyer
John M. Dyer
Administrative Law Judge

JD-654-75

FORM NLRB-4727
(9-69)

# NOTICE TO EMPLOYEES

## POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD

### AN AGENCY OF THE UNITED STATES GOVERNMENT

FOLLOWING A TRIAL IN WHICH THE COMPANY, LOCAL 155, LOCAL 522 AND THE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD PARTICIPATED AND OFFERED EVIDENCE, IT HAS BEEN FOUND THAT WE VIOLATED THE ACT. WE HAVE BEEN ORDERED TO POST THIS NOTICE AND TO ABIDE BY WHAT WE SAY IN THIS NOTICE.

WE WILL NOT assist LOCAL 522 of the teamsters, or any other labor organization, or otherwise interfere with the representation of our employees through a labor organization of their own choosing.

WE WILL NOT recognize LOCAL 522 of the teamsters or any successor thereto, as the representative of any of our employees for dealing with us with respect to rates of pay, wages, hours of employment, or other terms and conditions of employment, unless and until such labor organization shall have been certified by the Board as the exclusive representative of our employees.

WE WILL NOT perform, enforce, or give effect to the collective-bargaining agreement which was effective from September 13, 1974 with LOCAL 522 of the teamsters or enter into or enforce any extension, renewal, modification, or supplement thereof, of any superseding collective-bargaining agreement with said labor organization.

WE WILL NOT discourage membership in LOCAL 155, EXTERMINATORS, FUMIGATORS AND TERMITE WORKERS, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, by discharging employees or otherwise discriminating in any manner in respect to their tenure of employment or any term or condition of employment.

WE WILL NOT unlawfully interrogate employees concerning their membership or support of a union.

WE WILL NOT threaten to discharge employees and/or curtail or close our business or make working conditions more arduous to discourage our employees from becoming members of or supporting a union.

WE WILL NOT make promises of better conditions to discourage employees from becoming members of or supporting a union.

WE WILL NOT in any other manner interfere with, restrain, or coerce employees in the exercise of rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization, as authorized in Section 8(a)(3) of the Act.

WE WILL withdraw and withhold all recognition from LOCAL 522 of the teamsters as a representative of any of our employees for the purpose of dealing with them with respect to rates of pay, wages, hours of employment, or other terms or conditions of employment, unless or until said organization shall have been certified as such representative by the Board.

WE WILL jointly and severally with Respondent Union reimburse those employees who became members of Respondent Union after the execution of the Recognition Agreement of September 12, 1974, for moneys paid by them or deducted from their earnings for initiation fees, dues, assessments, or other obligations of membership in Respondent Union.

WE WILL, upon request, bargain collectively with EXTERMINATORS, FUMIGATORS AND TERMITE WORKERS, LOCAL 155, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, as the exclusive representative of our employees in the bargaining unit described below, and, if an understanding is reached, embody such understanding in a signed agreement. Said bargaining unit is:

> All employees of Scientific Pest Control Corporation excluding office clerical employees, guards, watchmen, and supervisors as defined in the Act.

WE WILL jointly and severally with Respondent Union make WILLIAM RAUPP and DENNIS BALZ whole for any loss of pay they may have suffered by reason of their being discharged on October 18, 1974 and WE WILL further make WILLIAM RAUPP whole for the loss of pay he suffered on and after September 11, 1974.

SCIENTIFIC PEST CONTROL CORPORATION

Dated____________________ By________________________________________

(Representative) (Title)

---

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, 4th Floor, Brooklyn, N.Y. 11241 (Tel. No. 212 - 596-5386).

FORM NLRB-4726
(4-71)

APPENDIX B

JD-654-75

# NOTICE TO MEMBERS

## POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD

### AN AGENCY OF THE UNITED STATES GOVERNMENT

FOLLOWING A TRIAL IN WHICH THE COMPANY, LOCAL 155, LOCAL 522, AND THE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD PARTICIPATED AND OFFERED EVIDENCE, IT HAS BEEN FOUND THAT WE VIOLATED THE ACT. WE HAVE BEEN ORDERED TO POST THIS NOTICE AND TO ABIDE BY WHAT WE SAY IN THIS NOTICE.

WE WILL NOT act as the collective-bargaining representative of the employees of Scientific Pest Control Corporation in the unit appropriate for the purpose of dealing with said Company concerning rates of pay, wages, hours of employment, or other terms or conditions of employment, unless and until this labor organization shall have been certified by the Board as the exclusive representative of those employees.

WE WILL NOT perform, enforce, or give effect to our collective-bargaining agreement of September 16, 1974, with Scientific Pest Control Corporation or enter into or enforce any extension, renewal, modification, or supplement thereof, or any superseding collective-bargaining agreement with Scientific Pest Control Corporation.

WE WILL NOT cause or attempt to cause Scientific Pest Control Corporation to discriminate against employees in violation of Section 8(a)(3) of the Act by entering into or maintaining any agreement with them which requires as a condition of employment membership in LOCAL 522 or in any other manner causing or attempting to cause Scientific Pest Control Corporation to discriminate against any employee in violation of Section 8(a)(3) of the Act.

WE WILL jointly and severally with Scientific Pest Control Corporation reimburse those employees who became members of our organization after execution of the Recognition Agreement of September 12, 1974 for moneys paid by them or deducted from their earnings for initiation fees, dues, assessments, or other obligations of membership in our organization, and make whole WILLIAM RAUPP and DENNIS BALZ for any loss of pay they may have suffered by reason of the unlawful discrimination against them.

LOCAL 522, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS AND WAREHOUSEMEN AND HELPERS OF AMERICA

Dated______________________ By______________________________________________
(Representative) (Title)

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office 16 Court Street, 4th Floor, Brooklyn, N.Y. 11231 -- (Tel. No. 212 - 596-5386).

JPW

224 NLRB No. 212

D--1396
St. James and Port
Washington, N.Y.

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

SCIENTIFIC PEST CONTROL CORPORATION

and

Case 29--CA--4236

EXTERMINATORS, FUMIGATORS AND
TERMITE WORKERS, LOCAL 155, SERVICE
EMPLOYEES INTERNATIONAL UNION, AFL--CIO

FILE IN
FORMAL FILE

and

LOCAL 522, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

Party to the Contract

LOCAL 522, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

and

Case 29--CB--2058

EXTERMINATORS, FUMIGATORS AND TERMITE
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL--CIO

and

SCIENTIFIC PEST CONTROL CORPORATION

Party to the Contract

## DECISION AND ORDER

On November 20, 1975, Administrative Law Judge John M. Dyer issued the attached Decision in this proceeding. Thereafter, the Respondent Company, the Respondent Union, and the General Counsel filed exceptions and supporting briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order, as modified herein.[1]

Contrary to the conclusion of the Administrative Law Judge, the complaint, as amended on September 4, 1975, does allege an 8(a)(5) violation by Respondent Company. Moreover, the issue was fully litigated at the hearing. Thus the record discloses that, in addition to the 8(a)(1), (2), and (3) misconduct found herein, Respondent Company refused to recognize and bargain with Local 155 on September 9, 1974, at a time when Local 155 represented a majority of Respondent's employees in an appropriate bargaining unit.[2] In the circumstances, we find that, as of September 9, Respondent Company failed to honor an obligation under the Act to bargain with the majority representative of its employees and thereby violated Section 8(a)(5).[3] This violation calls for a bargaining order in favor of Local 155 as of September 9, 1974.

As found by the Administrative Law Judge, Balz and Raupp, exterminator service routemen, were discharged by Respondent Company on October 18, 1974, at its St. James, Suffolk County, New York, location at the request of Respondent Union because of their nonmembership in the Respondent Union, and Respondents thereby violated the Act.[4] These employees have never been reinstated to their jobs at St. James as they should have been and an order of reinstatement there is required to effectuate the policies of the Act.

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[1] The following inadvertence contained in the Decision of the Administrative Law Judge is hereby corrected: In the first line of par. 13 of sec. II,A, the date "January 7" is changed to "September 7."

[2] Excluding office clerical employees, guards, watchmen, and supervisors.

[3] _Trading Port, Inc._, 219 NLRB No. 76 (1975). Member Jenkins concurs in the result.

On October 28 and 29, 1974, respectively, Balz and Raupp were rehired at Respondent Company's Port Washington, Nassau County, New York, location. The reason they were not reinstated at St. James, but were located at Port Washington instead, where they found it less convenient to work, is because Respondent Union supporters at St. James opposed the return of these Local 155 adherents at St. James and threatened a strike if they were rehired there. On December 7, 1974, Balz and Raupp were terminated at Port Washington because they refused to apply for salesmen's licenses.

If the effect of the unlawful conduct herein is to be undone, and the preventive purposes of the Act is not thwarted, Balz and Raupp must be reinstated at St. James, without loss of pay occasioned by the discharge and nonreinstatement at St. James. That is where they were discharged for refusing to join the Respondent Union at a time when they were not obligated to and only such reinstatement without loss of pay can serve to restore the status quo and reassure the employees of their statutory right to remain secure in their employment, free from reprisals however they choose to exercise the rights guaranteed them by Section 7 of the Act.

Respondent Company's rehire of Balz and Raupp at Port Washington rather than at St. James where their return was opposed by Respondent Union adherents[5] only served to aggravate the impact of the unlawful conduct by Respondents and underscores the need for the remedy we deem necessary.

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[4] Although the Administrative Law Judge found that Respondent Company violated Sec. 8(a)(1), (2), and (3) of the Act by discharging Balz and Raupp on October 18, pursuant to its unlawful contract with Respondent Union, par. 4 of his Conclusions of Law fails to include the 8(a)(2) finding; accordingly, this Conclusion of Law is amended to reflect the 8(a)(2) violation.

[5] As for Respondent Company's duty to resist the pressures it yielded to, see Aclang, Inc., 193 NLRB 86 (1971).

The discharge of Balz and Raupp at Port Washington does not negate the necessity for this remedial action. It is not established in the record that Balz and Raupp would have suffered the same fate had they remained employed at St. James. It seems evident that the return of these discriminatees to St. James even upon their discharge at Port Washington was not agreeable to Respondents.

Therefore, we shall order Respondent Company to reinstate Balz and Raupp at St. James without prejudice to their seniority or other rights and privileges. And as we have found that both Respondents are responsible for the discrimination suffered by Balz and Raupp on October 18, we shall order them jointly and severally to make these employees whole for the loss of pay that they may have suffered by reason of the discrimination against them.[6]

Backpay and restitution of fees are to be computed on a quarterly basis as in F. W. Woolworth Company, 90 NLRB 289 (1950). Interest in the amount of 6 percent is to be added to the backpay and to the amounts paid by the employees and/or deducted from their wages which is to be refunded, as in Isis Plumbing & Heating Co., 138 NLRB 716 (1962), as further amplified in Seafarers International Union of North America, Great Lakes District, 138 NLRB 1142 (1962). Respondents will also be ordered to make available to the Board or its agents, upon request, payroll membership lists, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amounts due the employees.

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[6] Respondent Union may terminate its liability for further accrual of backpay to Balz and Raupp by notifying the Respondent Company, in writing, that it has no objection to their reinstatement. The Respondent Union shall not thereafter be liable for any backpay accruing after 5 days from the giving of such notice.

(continued)

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ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that:

A. Respondent Scientific Pest Control Corporation, St. James and Port Washington, New York, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Unlawfully interrogating employees regarding their union activities and desires.

(b) Threatening to discharge its employees and/or curtail or close its business or make working conditions more arduous if the employees join or support Local 155.

(c) Promising unspecified benefits if its employees do not join or support Local 155.

(d) Discharging its employees and/or reducing their pay in order to discourage employees from joining or supporting Local 155.

(e) Assisting or contributing support to Respondent Union, Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or any other labor organization, and from otherwise interfering with the representation of its employees through a labor organization of their own choosing, by recognizing such labor organization as the exclusive representative of any of its employees for the purpose of collective bargaining at a time when another union represents the

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6/ Absent such notification, the Respondent Union shall remain jointly and severally liable with the Respondent Company for all backpay to Balz and Raupp that may accrue until the Respondent Company complies with our Order to offer them reinstatement.

Respondent Company's further obligation to reimburse Raupp for losses suffered because of the unlawful reduction of his earnings on or about September 10, 1974, continues, of course, until Raupp's reinstatement as ordered herein.

majority of its employees and Local 522 does not represent an uncoerced majority of the employees in an appropriate unit.

(f) Giving effect to, or in any manner enforcing, the collective-bargaining agreement executed with Local 522 on September 16, 1974, and effective from September 13, 1974, or to any modification, extension, renewal, or supplement thereto, or any superseding agreements, or to checkoff authorization cards executed pursuant to such agreements, unless and until said labor organization has been certified by the Board as the exclusive bargaining representative of such employees; provided, however, nothing herein shall require Respondent Company to vary or abandon any wage, hour, seniority, or other substantive features of its relations with its employees which have been established in the performance of such agreements or to prejudice the assertion by employees of any rights they may have thereunder.

(g) Refusing to bargain collectively with Exterminators, Fumigators and Termite Workers, Local 155, Service Employees International Union, AFL--CIO, as the exclusive bargaining representative of the employees in the appropriate bargaining unit.

(h) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement in conformity with Section 8(a)(e) of the Act, as amended.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Withdraw and withhold all recognition from Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the representative of its employees for the purpose of collective bargaining unless and until said labor organization has been duly certified by the Board as the exclusive representative of such employees.

(b) Jointly and severally with Respondent Union, reimburse all present and former employees who became members of Respondent Union on and after September 12, 1974, the date of the execution of a recognition agreement between Respondent Company and Respondent Union, for monies paid by them or deducted from their earnings for initiation fees, dues, assessments, or other obligations of membership in Respondent Union, together with interest at the rate of 6 percent per annum.

(c) Upon request, as of September 9, 1974, bargain collectively with Exterminators, Fumigators and Termite Workers, Local 155, Service Employees International Union, AFL--CIO, as the exclusive representative of the employees in Respondent Company's unit of:

> All employees of Respondent Company, exclusive of office clerical employees, guards, watchmen, and all supervisors.

And if an understanding is reached, embody such understanding in a signed agreement.

(d) Jointly and severally with Respondent Union make William Raupp and Dennis Balz whole for the losses of pay they suffered by reason of their October 18 discharges, as provided for herein.

(e) Make William Raupp whole for the loss of pay he suffered by reason of Respondent Company's reduction of his remuneration, as provided for herein.

(f) Offer to each William Raupp and Dennis Balz immediate and full reinstatement to his former position at the St. James, New York, location or, if such position no longer exists, to a substantially equivalent position, without prejudice to his seniority or other rights and privileges.

(g) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of reimbursement due under the terms of this Order.

(h) Post at its St. James and Port Washington, places of business copies of the attached notices marked "Appendix A" and "Appendix B."[7] Copies of said notices, on forms provided by the Regional Director for Region 29, after being duly signed by the appropriate representatives, shall be posted by Respondent Company immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to its employees are customarily posted. Reasonable steps shall be taken by Respondent Company to insure that said notices are not altered, defaced, or covered by any other material.

(i) Mail to the Regional Director for Region 29 copies of the attached notice marked "Appendix A" for posting by the Respondent Union. Copies of said notice, on forms provided by the Regional Director for Region 29, after being duly signed by the representatives of Respondent Company, shall be forthwith returned to said Regional Director for such posting.

(j) Notify the Regional Director for Region 29, in writing, within 20 days from the date of this Order, what steps the Respondent Company has taken to comply herewith.

B. Respondent Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Jamaica, New York, its officers, agents, and representatives, shall:

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[7] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

1. Cease and desist from:

(a) Acting as the collective-bargaining representative of the employees of Respondent Company in the unit heretofore found appropriate for the purpose of dealing with said Respondent Company concerning rates of pay, wages, hours of employment, or other terms or conditions of employment, unless and until such labor organization shall have been certified by the Board as the exclusive representative of such employees.

(b) Performing, enforcing, or giving effect to its collective-bargaining agreement of September 16, 1974, with Scientific Pest Control Corporation, or entering into or enforcing any extension, renewal, modification, or supplement thereof, or any superseding collective-bargaining agreement with Respondent Company.

(c) Causing or attempting to cause Respondent Company to discriminate against employees in violation of Section 8(a)(3) of the Act by entering into or maintaining any agreement with Respondent Company at a time it is not the representative of an uncoerced majority of these employees, which conditions employment on membership in Respondent Union, or in any other manner causing or attempting to cause Respondent Company to discriminate against any employee in violation of Section 8(a)(3) of the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act.

(a) Jointly and severally with the Respondent Company reimburse those employees who became members of Respondent Union after execution of the recognition agreement of September 12, 1974, for moneys paid by them or deducted from their earnings for initiation fees, dues, assessments, or other obligations of membership in Respondent Union, and jointly and severally with Respondent Company make whole he employees listed in the section of the Administrative Law Judge's Decision entitled "The Remedy" for any loss of pay they may have suffered by reason of the discrimination practiced against them, together with interest at the rate of 6 percent per annum.

(b) Jointly and severally with Respondent Company make William Raupp and Dennis Balz whole for the losses of pay they suffered by reason of their October 18, 1974, discharges, as provided for herein.

(c) Post at its business office and meeting hall copies of the attached notices marked "Appendix A" and "Appendix B."[8/] Copies of said notices, on forms provided by the Regional Director for Region 29, after being duly signed by the appropriate representatives, shall be posted by the Respondent Union immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to its members are customarily posted. Reasonable steps shall be taken by the Respondent Union to insure that said notices are not altered, defaced, or covered by any other material.

(d) Mail to the Regional Director for Region 29 signed copies of the attached notice marked "Appendix B" for posting by Scientific Pest Control Corporation. Copies of said notice, on forms provided by said Regional Director, after being duly signed by the Respondent Union's representative, shall be forthwith returned to said Regional Director for such posting.

(e) Notify the Regional Director for Region 29, in writing, within 20 days from the date of this Order, what steps the Respondent Union has taken to comply herewith.

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8/ See fn. 7, supra.

IT IS FURTHER ORDERED that the allegation concerning the alleged violation of the Act by the discharge of Thomas Clifford be dismissed.

Dated, Washington, D.C.
JUN 23 1976

Howard Jenkings, Jr., Member

John A. Penello, Member

Peter D. Walther, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

Numbered for paginating purposes only

# APPENDIX A

## NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT assist Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or any other labor organization, or otherwise interfere with the representation of our employees through a labor organization of their own choosing.

WE WILL NOT recognize Local 522, or any successor thereto, as the representative of any of our employees for dealing with us with respect to rates of pay, wages, hours of employment, or other terms and conditions of employment, unless and until such labor organization shall have been certified by the Board as the exclusive representative of our employees.

WE WILL NOT perform, enforce, or give effect to the collective-bargaining agreement which was effective from September 13, 1974, with Local 522 or enter into or enforce any extension, renewal, modification, or supplement thereof, or any superseding collective-bargaining agreement with said labor organization.

WE WILL NOT refuse to bargain with Exterminators, Fumigators and Termite Workers, Local 155, Service Employees International Union, AFL--CIO, as the exclusive representative of our employees for the unit described below.

WE WILL NOT discourage membership in Local 155, Exterminators, Fumigators and Termite Workers, Service Employees International Union, AFL--CIO, by discharging employees or othewise discriminating in any manner in respect to their tenure of employment or any term or condition of employment.

WE WILL NOT unlawfully interrogate employees concerning their membership or support of a union.

WE WILL NOT threaten to discharge employees and/or curtail or close our business or make working conditions more arduous to discourage our employees from becoming members of or supporting a union.

WE WILL NOT make promises of better conditions to discourage employees from becoming members of or supporting a union.

WE WILL NOT in any other manner interfere with, restrain, or coerce employees in the exercise of rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization, as authorized in Section 8(a)(3) of the Act.

WE WILL withdraw and withhold all recognition from Local 522 as a representative of any of our employees for the purpose of dealing with them with respect to rates of pay, wages, hours of employment, or other terms or conditions of employment, unless or until said organization shall have been certified as such representative by the Board.

WE WILL jointly and severally with Respondent Union reimburse those employees who became members of Respondent Union after the execution of the recognition agreement of September 12, 1974, for moneys paid by them or deducted from their earnings for initiation fees, dues, assessements, or other obligations of membership in Respondent Union.

WE WILL, upon request, as of September 9, 1974, bargain collectively with Exterminators, Fumigators and Termite Workers, Local 155, Service Employees International Union, AFL--CIO, as the exclusive representative of our employees in the bargaining unit described below, and, if an understanding is reached, embody such understanding in a signed agreement. Said bargaining unit is:

> All employees of Scientific Pest Control Corporation excluding office clerical employees, guards, watchmen, and supervisors as defined in the Act.

WE WILL jointly and severally with Respondent Union make William Raupp and Dennis Balz whole for any loss of pay they may have suffered by reason of their being discharged on October 18, 1974, and WE WILL further make William Raupp whole for any loss of pay he suffered on and after September 11, 1974.

WE WILL offer to Dennis Balz and William Raupp immediate full reinstatement to each's former position at our St. James, New York, location or, if such position no longer exists, to a substantially equivalent position, without prejudice to his seniority or other rights and privileges.

SCIENTIFIC PEST CONTROL CORPORATION
(Employer)

Dated ____________ By ____________________________
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, Fourth Floor, Brooklyn, New York 11241, Telephone 212--596--5386.

## APPENDIX B

## NOTICE TO MEMBERS

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT act as the collective-bargaining representative of the employees of Scientific Pest Control Corporation in the unit appropriate for the purpose of dealing with said Company concerning rates of pay, wages, hours of employment, or other terms or conditions of employment, unless and until this labor organization shall have been certified by the Board as the exclusive representative of those employees.

WE WILL NOT perform, enforce, or give effect to our collective-bargaining agreement of September 16, 1974, with Scientific Pest Control Corporation or enter into or enforce any extension, renewal, modification, or supplement thereof, or any superseding collective-bargaining agreement with Scientific Pest Control Corporation.

WE WILL NOT cause or attempt to cause Scientific Pest Control Corporation to discriminate against employees in violation of Section 8(a)(3) of the Act by entering into or maintaining any agreement with them which requires as a condition of employment membership in Local 522, or in any other manner causing or attempting to cause Scientific Pest Control Corporation to discriminate against any employee in violation of Section 8(a)(3) of the Act.

WE WILL jointly and severally with Scientific Pest Control Corporation reimburse those employees who became members of our organization after execution of the recognition agreement of September 12, 1974, for moneys paid by them or deducted from their earnings for initiation fees, dues, assessments, or other obligations of membership in our organization, and make whole William Raupp and Dennis Balz for any loss of pay they may have suffered by reason of the unlawful discrimination against them.

LOCAL 522, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND
HELPERS OF AMERICA
(Labor Organization)

Dated ____________________ By ________________________________
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, Fourth Floor, Brooklyn, New York 11231, Telephone 212--596--5386.

ORIGINAL

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

SCIENTIFIC PEST CONTROL CORPORATION

and

EXTERMINATORS, FUMIGATORS AND TERMITE
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

Case No. 29-CA-4236

and

LOCAL 522, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

Party to the Contract

LOCAL 522, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

and

EXTERMINATORS, FUMIGATORS AND TERMITE
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

Case No. 29-CB-2058

and

SCIENTIFIC PEST CONTROL CORPORATION

Party to the Contract

## ORDER CONSOLIDATING CASES, COMPLAINT AND NOTICE OF HEARING

It having been charged in Case No. 29-CA-4236 by Exterminators, Fumigators and Termite Workers, Local 155, Service Employees International Union, AFL-CIO, herein called Local 155, that Scientific Pest Control Corporation, herein called Respondent Employer, and in Case No. 29-CB-2058 by Local 155, that Local 522, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called Respondent Union, have engaged in, and are engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C., Sec. 151, *et seq.*, herein called the Act, the General

GC X 1(e)

Counsel of the National Labor Relations Board, herein called the Board, by the undersigned Regional Director for Region 29, having duly considered the matter and deeming it necessary in order to effectuate the purposes of the Act, and to avoid unnecessary costs or delay,

HEREBY ORDERS, pursuant to Section 102.33 of the Board's Rules and Regulations - Series 8, as amended, that these cases be, and they hereby are, consolidated.

Said cases having been consolidated, the General Counsel of the Board, on behalf of the Board, by the undersigned Regional Director, pursuant to Section 10(b) of the Act and the Board's Rules and Regulations - Series 8, as amended, Section 102.15, hereby issues this Consolidated Complaint and Notice of Hearing and alleges as follows:

1. (a) The Charge in Case No. 29-CA-4236 was filed by Local 155 on March 3, 1975, and served by registered mail upon Respondent Employer on or about March 3, 1975, and upon Respondent Union on or about April 9, 1975.

(b) The Charge in Case No. 29-CB-2058 was filed by Local 155 on March 3, 1975, and served by registered mail upon Respondent Union on or about March 3, 1975.

2. Respondent Employer is, and has been at all times material herein, a corporation duly organized under, and existing by virtue of, the laws of the State of New York.

3. At all times material herein, Respondent Employer has maintained its principal office and place of business at 599 Lake Avenue, St. James, in the County of Suffolk, State of New York, herein called the St. James shop, and a place of business at 88 South Baylis Avenue, Port Washington, County of Nassau, State of New York, herein called the Port Washington shop. It is, and has been at all times material herein, continuously engaged in providing and performing insect and pest extermination and fumigation services and related services.

4. During the past year, which period is representative of its annual operations generally, Respondent Employer, in the course and conduct of its business, purchased and caused to be transported and delivered to its places of business, pesticides, chemicals, and other goods and materials valued in excess of $50,000, of which goods and materials valued in excess of $50,000 were transported and delivered to it, and received from, other enterprises, including, inter alia, York Chemical Corp., Equipment Sales Corp. and American Fluoride Corp., located in the State of New York, each of which other enterprises had received the said goods and materials in interstate commerce directly from states of the United States other than the State of New York, and in foreign commerce directly from foreign countries.

5. Respondent Employer is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

6. (a) Local 155 is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

(b) Respondent Union is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

7. Salvatore Giordano is, and has been at all times material herein, the president of Respondent Employer, acting on its behalf, and an agent thereof.

8. All employees of Respondent Employer, exclusive of office clerical employees, guards, watchmen and all supervisors as defined in Section 2(11) of the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

9. On or about September 8, 1974, a majority of the employees of Respondent Employer, in the unit described above in paragraph 8, designated and selected Local 155 as their representative for the purposes of collective bargaining with Respondent Employer, and at all times since said date, Local 155, by virtue of Section 9(a) of the Act, has been, and is now the exclusive representative of all the employees in said unit for the purposes of collective bargaining.

10. On or about September 9, 1974, Local 155 requested Respondent Employer to recognize and bargain collectively with it as the exclusive collective bargaining representative of Respondent Employer's employees in the unit described above in paragraph 8, with respect to rates of pay, wages, hours of employment and other terms and conditions of employment of such employees.

11. On or about September 9, 1974, Respondent Employer refused, and since said date has continued to refuse, to recognize and bargain collectively with Local 155 as the exclusive collective bargaining representative of Respondent Employer's employees, in the unit described above in paragraph 8.

12. On or about September 7, 1974, September 9, 1974, September 10, 1974, and on various other dates presently unknown during the month of September 1974, Respondent Employer, by Salvatore Giordano, its president and agent, and by other agents and supervisors presently unknown, at its St. James shop and in the field, interrogated its employees concerning the Employees' membership in, activities on behalf of, and sympathy in and for Local 155.

13. On or about September 7, 1974, September 9, 1974, September 10, 1974, and on various other dates presently unknown during the month of September 1974, Respondent Employer, by Salvatore Giordano, its president and agent, and by other agents and supervisors presently unknown, at its St. James Shop and in the field, warned and directed its employees to refrain from becoming or remaining members of Local 155, and to refrain from giving any assistance or support to it.

14. On or about September 7, 1974, September 9, 1974, September 10, 1974, and on various other dates presently unknown during the months of September and October 1974, Respondent Employer, by Salvatore Giordano, its president and agent, and by other agents and supervisors presently

unknown, at its St. James shop and in the field, threatened its employees with discharge, threatened said employees that it would discontinue its business operations, and threatened said employees that it would impose more arduous and onerous working conditions upon them and would engage in other reprisals if they became or remained members of Local 155, and if they gave any assistance and support to it, and if they refrained from becoming members of Respondent Union and giving assistance and support to said labor organization.

15. On or about September 7, 1974, and on various other dates presently unknown during the month of September 1974, Respondent Employer, by Salvatore Giordano, its president and agent, and by other agents and supervisors presently unknown, at its St. James shop and in the field, offered and promised to its employees wage increases, and other benefits and improvements in their working conditions and terms of employment to induce them to refrain from becoming or remaining members of Local 155, and to refrain from giving any assistance or support to it, and to induce them to abandon their membership in and activity on its behalf.

16. On or about September 12, 1974, Respondent Employer recognized Respondent Union as the exclusive collective bargaining representative of its employees in the unit described above in paragraph 8.

17. (a) On or about September 13, 1974, Respondent Employer and Respondent Union executed, and since that date have maintained and enforced, a collective bargaining agreement relating to the hire, tenure and other terms and conditions of employment of the employees of Respondent Employer in the unit described above in paragraph 8.

(b) The agreement described above in subparagraph (a), contains, inter alia, provisions which require membership in good standing in Respondent Union as a condition of employment and tenure of employment.

(c) Respondent Employer recognized Respondent Union, as described above in paragraph 16, and Respondent Employer and Respondent Union executed, and thereafter maintained in effect and enforced, the collective bargaining agreement, described above in subparagraphs (a) and (b), notwithstanding that: (i) prior thereto, a majority of the employees in the unit described above in paragraph 8 had designated and selected Local 155 as their representative for the purposes of collective bargaining with Respondent Employer and Local 155 had made a demand upon Respondent Employer to recognize and bargain with it as the exclusive collective bargaining representative of said employees; (ii) Respondent Union did not, at the time of its recognition by Respondent Employer and of the execution of the collective bargaining agreement between Respondent Employer and Respondent Union, nor at any time thereafter, represent an uncoerced majority of the employees in the unit described above in paragraph 8; and (iii) Respondent Employer, at the time of its recognition of Respondent Union and execution of a collective bargaining agreement with it, had an outstanding statutory obligation to recognize and bargain with Local 155 as the exclusive collective bargaining representative of the employees in the unit described above in paragraph 8.

18. Pursuant to and by virtue of the agreement, described above in paragraph 17, Respondent Employer and Respondent Union have, since on or about September 13, 1974, required, and are requiring, the employees covered and affected by the provisions of said agreement, to pay, and the employees covered and affected by the provisions of said agreement have paid, and are paying, monies to Respondent Union, including, but not limited to, initiation fees and dues, as a condition of employment and continued employment, and the payment of such monies has been, and is being, exacted and coerced by the said agreement.

19. Since on or about September 13, 1974, Respondent Employer deducted monies, including, but not limited to, dues and initiation fees, from the wages of its employees as union dues and other union obligations, and paid the same over to Respondent Union, pursuant to and by virtue of the agreement described above in paragraph 17.

20. (a) On or about September 7, 1974, Respondent Employer discharged its employee, William Rupp.

(b) On or about September 9, 1974, Respondent Employer reinstated its employee, William Rupp to his former or substantially equivalent position of employment.

21. On or about September 9, 1974, Respondent Employer reduced the rate of pay and other benefits of its employee, William Rupp, and thereafter until on or about October 18, 1974, paid said employee his wages at such reduced rate; provided him with less employment than he previously had received, and with less employment than he normally would have received.

22. On or about the dates listed below, Respondent Employer discharged the following-named employees:

| Name of Employee | Date of Discharge |
|---|---|
| Anthony Nuzzi | September 9, 1974 |
| Thomas Clifford | October 1, 1974 |

23. In or around April 1975, Respondent Employer reinstated its employee, Anthony Nuzzi, to his former or substantially equivalent position of employment.

24. Since the dates of the discharge of its employees Thomas Clifford and Anthony Nuzzi, as described above in paragraph 22, Respondent Employer has failed and refused to reinstate, or offer to reinstate, said employees to their former or substantially equivalent position of employment, except that Respondent Employer reinstated Nuzzi as described above in paragraph 23.

25. Respondent Employer engaged in the conduct described above in paragraph 20(a), 21, 22 and 24 because said employee joined and assisted Local 155 and engaged in other concerted activity for the purpose of collective bargaining and mutual aid protection, and because said employees refused to join or assist Respondent Union.

26. (a) On or about October 18, 1974, Respondent Union made a demand upon Respondent Employer that it discharge its employees, William Rupp and Dennis Balz.

(b) Respondent Union demanded that Respondent Employer discharge the employees named above in subparagraph (a) because said employees had joined and assisted Local 155 and engaged in other concerted activity for the purpose of collective bargaining and other mutual aid and protection, and because said employees had refused to join and assist Respondent Union.

27. (a) On or about October 18, 1974, Respondent Employer discharged its employees, William Rupp and Dennis Balz.

(b) Since the date of discharge of the employees described above in subparagraph (a), Respondent Employer has failed and refused to reinstate, or offer to reinstate, said employees to their former or substantially equivalent position of employment, except that on or about October 28, 1974, Respondent Employer reinstated its employee, Dennis Balz, and on or about October 29, 1974, Respondent Employer reinstated its employee, William Rupp.

28. Respondent Employer discharged its employees, and failed and refused to reinstate them, as described above in paragraph 27(a) and (b) pursuant to the demand made by Respondent Union, as described above in paragraph 26, because said employees joined and assisted Local 155, and engaged in other concerted activity for the purpose of collective bargaining and mutual aid and protection, and because said employees refused to join or assist Respondent Union.

and conditions of employment of its employees, thereby encouraging membership in one labor organization, and discouraging membership in another labor organization, and thereby engaged in, and is engaging in, unfair labor practices affecting commerce within the meaning of Section 8(a)(3) and Section 2(6) and (7) of the Act.

34. By the acts described above in paragraphs 16, 17, 18 and 26, and by each of said acts, Respondent Union restrained and coerced, and is restraining and coercing, employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby engaged in, and is engaging in, unfair labor practices affecting commerce within the meaning of Section 8(b)(1)(A) and Section 2(6) and (7) of the Act.

35. By the acts described above in paragraphs 17, 18 and 26, and by each of said acts, Respondent Union caused, and attempted to cause, and is causing and attempting to cause, an employer to discriminate against his employees in violation of Section 8(a)(3) of the Act, and thereby engaged in, and is engaging in, unfair labor practices affecting commerce within the meaning of Section 8(b)(2) and Section 2(6) and (7) of the Act.

36. The acts described above in paragraph 11 through 19, 20(a), 21, 22, 24, 25, 27, 28, 29 and 30 are so serious and substantial in character and effect as to warrant the entry of a remedial order requiring Respondent Employer to recognize and bargain with Local 155 in the appropriate unit described above in paragraph 8.

37. The acts of Respondent Employer and Respondent Union, described above in paragraphs 11 through 19, 21, 22, 24, 25, 26, 27, 28 and 29, occurring in connection with the operations of Respondent Employer, described above in paragraphs 2 through 5, have a close, intimate and substantial relation to trade, traffic and commerce among the several states and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

**PLEASE TAKE NOTICE** that on the 18th day of August, 1975 at 11:00 a.m. at 16 Court Street, fourth floor, in the Borough of Brooklyn, City and State of New York, and on consecutive days thereafter until concluded, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person, or otherwise, and give testimony. Form NLRB-4668, Statement Of Standard Procedures In formal Hearings Held Before The National Labor Relations Board In Unfair Labor Practice Cases, is attached.

**YOU ARE FURTHER NOTIFIED** that, pursuant to Section 102.20 and 102.21 of the Board's Rules and Regulations, the Respondent shall file with the undersigned Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four (4) copies of an answer to the said Complaint within ten (10) days from the service thereof, and that unless it does so, all the allegations in the Complaint shall be deemed to be admitted by it to be true and may be so found by the Board. Immediately upon the filing of its answer, Respondent shall serve a copy thereof on each of the other parties.

Dated at Brooklyn, New York, this 27th day of June, 1975.

Samuel M Kaynard
Samuel M Kaynard

Samuel M. Kaynard
Regional Director, Region 29
National Labor Relations Board
16 Court Street
Brooklyn, New York 11241

FORM NLRB-4668
(1-73)

(C CASES)

# SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE NATIONAL LABOR RELATIONS BOARD IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The hearing will be conducted by an Administrative Law Judge of the National Labor Relations Board. He will preside at the hearing as an independent, impartial trier of the facts and the law and his decision in due time will be served on the parties. His headquarters are either in Washington, D.C. or San Francisco, California.

At the date, hour, and place for which the hearing is set, the Administrative Law Judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to assure that the issues are sharp and clear-cut; or he may, on his own initiative, conduct such a conference. He will preside at any such conference, but he may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record -- for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the Administrative Law Judge conducting the prehearing conference will be the one who will conduct the hearing; and it [illegible] expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or to make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the Administrative Law Judge for his approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the Administrative Law Judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the Administrative Law Judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The Administrative Law Judge will allow an automatic exception to all adverse rulings, and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies shall also be supplied to other parties. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy before the close of hearing. In the event such copy is not submitted, and the filing thereof has not for good reason shown been waived by the Administrative Law Judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. In the absence of a request, the Administrative Law Judge may himself ask for oral argument, if at the close of the hearing he believes that such argument would be beneficial to his understanding of the contentions of the parties and the factual issues involved.

Any party shall also be entitled upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the Administrative Law Judge who will fix the time for such filing.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the Administrative Law Judge will be considered unless received by the Chief Administrative Law Judge in Washington, D. C. (or in cases under the San Francisco, California branch office of the Division of Judges, the Presiding Judge in charge of such office) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously upon all other parties, and proof of such service furnished to the Chief Administrative Law Judge or Presiding Judge as the case may be. All briefs or proposed findings filed with the Administrative Law Judge must be submitted in triplicate, and may be in typewritten, printed, or mimeographed form, with service upon the other parties.

In due course the Administrative Law Judge will prepare and file with the Board his decision in this proceeding, and will cause a copy thereof to be served upon each of the parties. Upon filing of the said decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, upon all parties. At that point, the Administrative Law Judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the Administrative Law Judge's Decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, Series 8, as amended, particularly in Section 102.46, and following sections. A summary of the more pertinent of these provisions will be served upon the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the Act reduce government expenditures and promote amity in labor relations. Upon request, the Administrative Law Judge will afford reasonable opportunity during the hearing for discussions between the parties if adjustment appears possible, and may himself suggest it.

GPO 941-789

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

- - - - - - - - - - - - - - - - - - - - - -

SCIENTIFIC PEST CONTROL CORPORATION,

and

EXTERMINATORS, FUMIGATORS AND TERMITE
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

and

LOCAL 522, INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND
HELPERS OF AMERICA,
Party to the Contract

and

LOCAL 522, INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND
HELPERS OF AMERICA

and

EXTERMINATORS, FUMIGATORS AND TERMITE
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

and

SCIENTIFIC PEST CONTROL CORPORATION,

Party to the Contract

- - - - - - - - - - - - - - - - - - - - - - - - -

## ANSWER

Case No. 29-CA-4236
29-CB-2058

Answering the complaint herein, respondent Scientific Pest Control Corporation, hereby alleges as follows:

1. Admits the allegations set forth in paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 of the complaint.

2. Denies the allegations set forth in paragraphs 9, 10, 11, 12, 13, 14, 15, 18, 21, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37 of the complaint.

1. Admits the allegations set forth in paragraphs 16, 17, 19, 20, 22, 23, 24 and 27 of the complaint.

#1(g)

Dated: July 1, 1975

KIMMELL & KIMMELL
Attorneys for Respondent Scientific
Pest Control Corporation
150 Broad Hollow Road
Melville, New York 11746

To: Israelson & Streit, Esqs.
Attorneys for Local 155

Local 522, I.B.T.

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'75 JUL 9 AM 9:16
BROOKLYN, N.Y.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
-------------------------------------------------X

SCIENTIFIC PEST CONTROL CORPORATION

and : Case No. 29-CA-4236

EXTERMINATORS, FUMIGATORS AND TERMITE
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

and :

LOCAL 522, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFERUS, WAREHOUSEMEN
AND HELPERS OF AMERICA

Party to the Contract

LOCAL 522 INTERNATIONAL BROTHERHOOD :
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

and

EXTERMINATORS, FUMIGATORS AND TERMITE
WORKERS, LOCAL 155, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO : Case No. 29-CB-2058

and

SCIENTIFIC PEST CONTROL CORPORATION

ANSWER

Party to the Contract
-------------------------------------------------X

LOCAL 522, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, by CHARLES R. KATZ, its attorney, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, as and for its Answer to the Complaint, alleges as follows:

1) Admits the allegations contained in Paragraphs "1(a)", "1(b)", "2", "3", "4", "5", "6(a),(b)", "7", "8", "16", "17(a),(b)", "19" of the Complaint.

2) Denies the allegations contained in Paragraphs "9", "10", "17(c)", "26(a),(b)", "28", "30", "31", "32", "33", "34", "35", "36", "37" of the Complaint.

3) Denies on information and belief as to the allegations contained in Paragraphs "11", "12", "13", "14", "15", "20(a),(b)", "21", "22", "23", "24", "25", "27(a),(b)", "29(a),(b)".

4) Admits the allegations contained in Paragraph 18 of the Complaint except denies "such monies has been and is being exacted and coerced by said agreement."

Dated: New York, New York
July 7, 1975

Yours, etc.

Charles R. Katz

CHARLES R. KATZ, ESQ.
Attorney for Local 522, International
Brotherhood of Teamsters, Chauffeurs,
and Warehousemen of America
360 Lexington Avenue
New York, New York 10017

Tel.: 212 867 9140

CERTIFICATE OF SERVICE

The undersigned certifies that on July 7, 1975 an original and 4 copies of the within Answer were served by first class mail, postage prepaid on:

Hon. Samuel M. Kaynard, Regional Director
National Labor Relations Board
Region 29
16 Court Street
Brooklyn, New York 11241

And further, that copies of the within Answer were served by first class mail, postage prepaid on:

Scientific Pest Control Corporation
599 Laek Avenue
St. James, New York 11780

Local 155, SEIU, AFL-CIO
249 West 34th Street
New York, N. Y. 10001

Kimmell & Kimmell, Esqs.
150 Broad Hollow Road
Melville, New York 11746
Att: Leonard Kimmell, Esq.

Israelson & Streit, Esqs.
521 Fifth Avenue
New York, N. Y. 10017
Att: Allen Mathers, Esq.

Hilda Kaplan

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

SCIENTIFIC PEST CONTROL CORPORATION

and

EXTERMINATORS, FUMIGATORS AND TERMITE WORKERS, LOCAL 155, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO — Case No. 29-CA-4236

and

LOCAL 522, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Party to the Contract

LOCAL 522, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

and

EXTERMINATORS, FUMIGATORS AND TERMITE WORKERS, LOCAL 155, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO — Case No. 29-CB-2058

and

SCIENTIFIC PEST CONTROL CORPORATION

Party to the Contract

## ORDER

WHEREAS, Exterminators, Fumigators and Termite Workers, Local 155, Service Employees International Union, AFL-CIO, herein called Local 155, filed a charge in Case No. 29-CA-4236 on March 3, 1975 that Scientific Pest Control Corporation, herein called Respondent Employer, had engaged in violations of Sections 8(a)(1), (2), (3) and (5) of the Act; and

WHEREAS, on June 27, 1975, Local 155 requested by letter that the 8(a)(5) portion of its charge in Case No. 29-CA-4236 be withdrawn, which request was approved by the undersigned on June 30, 1975; and

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WHEREAS, on June 27, 1975, the undersigned issued an Order Consolidating Case No. 29-CA-4236 with Case No. 29-CB-2058 and a Complaint and Notice of Hearing alleging inter alia that Respondent Employer had engaged in violations of Sections 8(a)(1), (2) and (3) of the Act that were so serious and substantial in character and effect as to warrant the entry of a remedial order requiring Respondent Employer to recognize and bargain with Local 155 in the appropriate unit described in paragraph 8 of said complaint; and

WHEREAS, on August 18, 1975, Local 155 retracted, by letter, its request that the Section 8(a)(5) portion of its charge in Case No. 29-CA-4236 be withdrawn;

NOW THEREFORE, the undersigned Regional Director, having duly considered the matter, and deeming it necessary in order to effectuate the purposes of the Act:

IT IS HEREBY ORDERED that the undersigned's approval of Local 155's request to withdraw the Section 8(a)(5) allegation of its charge in Case No. 29-CA-4236 be, and the same is hereby rescinded, and IT IS FURTHER ORDERED that the Section 8(a)(5) allegation of the charge in Case No. 29-CA-4236 be, and the same is herewith reinstated for further processing.

Dated at Brooklyn, New York this 4th day of September, 1975.

Samuel M. Kaynard
Regional Director, Region 29
National Labor Relations Board
16 Court Street
Brooklyn, New York 11241

ORIGINAL

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

SCIENTIFIC PEST CONTROL CORPORATION

and

EXTERMINATORS, FUMIGATORS AND TERMITE WORKERS, LOCAL 155, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

Case No. 29-CA-4236

and

LOCAL 522, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Party to the Contract

LOCAL 522, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

and

EXTERMINATORS, FUMIGATORS AND TERMITE WORKERS, LOCAL 155, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

Case No. 29-CB-2058

and

SCIENTIFIC PEST CONTROL CORPORATION

Party to the Contract

## ORDER AMENDING COMPLAINT

The Order Consolidating Cases, Complaint and Notice of Hearing heretofore issued herein on June 27, 1975 is hereby amended as follows:

1. Paragraph 36 is hereby deleted, and the following paragraph is hereby inserted as paragraph 36:

"By the acts described above in paragraphs 11 through 19, 20(a), 21, 22, 24, 25, 27, 28, 29 and 30, and by each of said acts, Respondent Employer refused to bargain collectively, and is refusing to bargain

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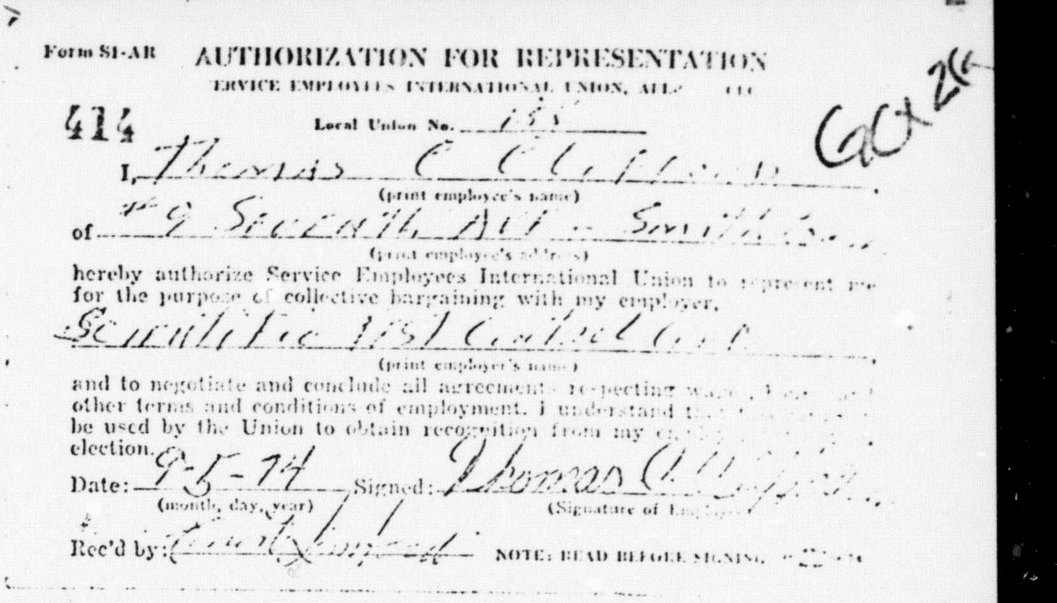
collectively, with the representatives of its employees, and thereby engaged in and is engaging in, unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and Section 2(6) and (7) of the Act."

Dated at Brooklyn, New York this 4th day of September, 1975.

Samuel M Kaynard
Samuel M Kaynard

Samuel M. Kaynard
Regional Director, Region 29
National Labor Relations Board
16 Court Street
Brooklyn, New York 11241

8(5) ADDED



Form SI-AR **AUTHORIZATION FOR REPRESENTATION**

SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

414 Local Union No. 155

GCx 2A

I, Thomas C. Cl[illegible]
(print employee's name)

of #9 Seventh Ave. Smith[illegible]
(print employee's address)

hereby authorize Service Employees International Union to represent me for the purpose of collective bargaining with my employer,

Scientific [illegible]
(print employer's name)

and to negotiate and conclude all agreements respecting wages, hours and other terms and conditions of employment. I understand th[illegible] be used by the Union to obtain recognition from my e[illegible] election.

Date: 9-5-74 Signed: Thomas C. [illegible]
(month, day, year) (Signature of Employee)

Rec'd by: [illegible] NOTE: READ BEFORE SIGNING

Authorization Cards 2B, 2C, 2D, 2E, 2F, 2G, 2H, and 11 are identical to General Counsel Exhibits 2A except for the following names and dates of signatures:

| No. | Name | Date Signed |
|---|---|---|
| 2B | Dennis Balz | 9-7-74 |
| 2C | Salvatore De Meo | 9-6-74 |
| 2D | Anthony Nuzzi | 9-4-74 |
| 2E | Ronald Page | 9-5-74 |
| 2F | Michael J. Passantino, Jr. | 9-4-74 |
| 2G | William C. Raupp | 9-5-74 |
| 2H | Mark Minter | 9-6-74 |
| 11 | Patrick Tierney | 9-8-74 |

Sept 10. 1975

Co #3

|  |  | EMPLOYEE'S NAME 415 | 1 | 2 | 3 | 4 | 6 | 5 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 |  | Patrick Tierney |  |  |  |  |  |  |  |  |
| 2 |  | Anthony Nuzzi |  |  |  |  |  |  |  |  |
| 3 |  | Mark Giordano |  |  |  |  |  |  |  |  |
| 4 |  | Joseph Giordano |  |  |  |  |  |  |  |  |
| 5 |  | Salvatore Giordano |  |  |  |  |  |  |  |  |
| 6 |  | Mary A Giordano |  |  |  |  |  |  |  |  |
| 7 |  | Henry B Knox |  |  |  |  |  |  |  |  |
| 8 |  | James Guenther |  |  |  |  |  |  |  |  |
| 9 |  | James Melville |  |  |  |  |  |  |  |  |
|  |  | Eileen Foley |  |  |  |  |  |  |  |  |
|  |  | Yvonne C Boos |  |  |  |  |  |  |  |  |
|  |  | Joy Guasoni |  |  |  |  |  |  |  |  |
|  |  | John Michalicka |  |  |  |  |  |  |  |  |
|  |  | Michael Possentino Jr |  |  |  |  |  |  |  |  |
|  |  | Harold C Carses |  |  |  |  |  |  |  |  |
|  |  | Dennis Balz |  |  |  |  |  |  |  |  |
|  |  | William Raupp |  |  |  |  |  |  |  |  |
|  |  | Mark Menter |  |  |  |  |  |  |  |  |
|  |  | Robert L Williams |  |  |  |  |  |  |  |  |
|  |  | Salvatore De Meo |  |  |  |  |  |  |  |  |
|  |  | Thomas C Clifford |  |  |  |  |  |  |  |  |
|  |  | Paul W Porci Jr |  |  |  |  |  |  |  |  |
|  |  | Ronald Page |  |  |  |  |  |  |  |  |

PERIOD ENDING 19 PAGE NO. BY

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| 10 | 9-10 | 30 | | 95 | | | 95 | 5 56 | 10 64 | [illegible] | 30 | | | | | 76.24 |
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SAFEGUARD BUSINESS SYSTEMS
LANSDALE PA LOS ANGELES CHICAGO ATLANTA
FORM [illegible]

GCX4

AGREEMENT made this 12th day of Sept., 1974 by and between Local 522 Aff. With I.B.T. with its office at 139-16 91st Ave., Jamaica, New York 11435 hereinafter referred to as the "UNION" and Scientific Pest Control Corp. located at 599 Lake Ave., St. James, New York hereinafter referred to as the "EMPLOYER".

W I T N E S S E T H :

WHEREAS, the Union has presented to the Employer and the Employer has examined authorization cards which bear the signatures of more than a majority of the employees in the unit herein described, which cards bear on their face a clear and unequivocal designation of the undersigned Union as bargaining representative, and the Employer after having examined the said cards and after having verified the employees' signatures thereon, has satisfied itself that the Union has made a clear and positive demonstration of the possession of majority status and that the Union therefor represents more than a majority of the Employer's said employees and the Union having requested that it be recognized as the bargaining agent for such employees; and

WHEREAS, the parties desire to negotiate and enter into a collective bargaining agreement covering wages, hours and other terms and conditions of employment covering the said employees, and to provide for an amicable method for the settlement of differences that may arise in the course of such negotiations.

NOW, THEREFORE, in consideration of the premises and of the mutual promises, covenants and conditions hereinafter set forth, the parties hereto agree as follows:

1. The Employer hereby recognizes the Union as the sole and exclusive collective bargaining agent of all of its employees in the following bargaining unit:

INCLUDED: Drivers & Exterminators, Salesmen & General Helpers & Warehousemen

EXCLUDED: Office clerical / Supervisors, watchmen and guards, as defined in the National Labor Relations Act as amended.

2. The parties hereto agree to enter into negotiations for a collective bargaining agreement respecting wages, hours of work, and other terms and conditions of employment of the employees within the bargaining unit hereinabove defined, such negotiations to commence forthwith, which negotiations shall be carried on continuously for a period of not longer than fifteen (15) days from the date hereof, and in the event that no agreement is reached within said fifteen (15) days, then all matters in dispute between the parties shall be submitted to arbitration before Harry Silverman, 225 W. 34th St., New York, N.Y. whose decision or award shall be final and binding upon the parties hereto and shall be deemed incorporated in and made a part of the collective bargaining agreement between the parties, it being understood and agreed that all provisions of the collective bargaining agreement arrived at and entered into as provided above shall be retroactive to and effective as of the date of this agreement. The collective bargaining agreement between the parties hereto shall consist of the provisions herein contained together with the provisions agreed upon by the parties in the course of their negotiations, and in the event of resort to arbitration, the Award of the Arbitrator on any issue or issues issued pursuant to the provisions of this agreement.

3. If, for any reason, the Employer shall change its name or legal status, or the Union shall change its name or legal status, it is agreed that such changes shall in no manner modify or affect the binding obligations of this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement the day and year first above written.

Local 522 aff. with I.B. of T.
(UNION)

BY: [illegible] J Casalino V. Pres.

AGREEMENT made this 16th day of September 1974, by and between SCIENTIF   PEST CONTROL CORP., 599 L   e Avenue, St. James, New York, hereinafter called the "EMPLOYER" and LOCAL 522, AFFILIATE WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, OF NEW JERSEY AND THE GREATER METROPOLITAN AREA, hereinafter called the "UNION" for and on behalf of itself, the employees now employed and hereafter to be employed by the Employer and collectively designated as employees.

## WITNESSETH

WHEREAS, the Employer recognizes the Union aforesaid as the only Union representing its employees, and agrees to deal collectively only with the Union.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties do hereby agree as follows:

BEST COPY AVAILABLE

### 1. RECOGNITION AND UNION SHOP

The Employer recognizes the Union as the only Union representing its employees, (excluding office clerical employees, guards, watchmen and supervisors as defined in the Labor Management Relations Act), and agrees to deal collectively only with this Union for and on behalf of its employees. The Employer agrees to recognize and deal with such representatives of the Union as the said Union may elect or appoint. The Employer will not enter into individual agreements of any kind with any employee. It shall be a condition of employment that all employees of the Employer covered by this Agreement, who are members of the Union on the execution date of this Agreement or the effective date, whichever is later, shall remain members in good standing, and thosewho are not members on the execution date, or the effective date of this Agreement, whichever is later, shall, on the thirtieth day following the execution date, or the effective date of this Agreement whichever is later, become and remain members in good standing in the Union. It shall also be a condition of employment that all employees covere by this Agreement, and hired on/or after its execution date, or the effective date, whichever is later, shall on the thirtieth day following the beginning of such employment become and remain members in good standing in the Union. Upon written notice from the Union, the Employer will deduct all Union membership dues, initiative fees, and uniform assessments as provided for in the authorization, upon condition that at the time of such notice, the Union shall furnish the Employer with a written authorization executed by the worker. The Employer will notify the Union promptly of any revocation of such authorization received by it. The authorization shall not be irrevocable for a period of more than one (1) year, or beyond the termination date of the Agreement, whichever occurs sooner. The failure of any person to become a member of the Union at the required time shall obligate the Employer, upon written notice from the Union to such effect and to the further effect that Union membership was available to such person on the same terms and conditio generally available to other members, to forthwith discharge such person. Further, the failure of any person to maintain his Union membership in good standing as required herein shall, upon written

## 2. NEW WORKERS

A. Whenever the Employer shall require new workers, he shall first offer employment to those of his workers who may have been laid off in accordance with the seniority provisions of this Agreement. If the Employer shall need new workers in addition, he shall apply for such workers to an employment office which the Union undertakes to operate without discrimination as to Union membership or activities or the lack thereof. If such employment office fails to supply qualified workers to the Employer within forty-eight (48) hours after such request was made, the Employer may engage new workers from any other employment office or source.

B. Any new employee shall serve a probationary period of thirty (30) days before he shall be considered a permanent employee. Within one (1) week after hiring, the Employer shall furnish to the Union a list of new workers covered by the Agreement.

## 3. SENIORITY

All persons employed for a period exceeding thirty (30) days shall be considered a permanent employee and shall be entitled to seniority rights. All layoffs shall be in the inverse order of seniority, i.e., the last person hired shall be the first persons to be laid off. The Employer agrees to give notice of layoff. In the event that additional employees shall be needed, all persons previously laid off shall be the first person to be rehired. Stewards shall be entitled to top seniority. There shall be overall company seniority whenever practicable.

## 4. STEWARDS

The Employer recognizes the right of the Union to designate stewards and/or alternates.

The authority of stewards and/or alternates so designated by the Union shall be limited to, and shall not exceed the following duties and activities:

A. The investigation and presentation of grievances in accordance with the provisions of the collective bargaining agreement.

B. The transmission of such messages and information which shall originate with and are authorized by the Union or its officers, provided such messages and information have been reduced to writing, or, if not reduced to writing, are of a routine nature and do not involve work stoppages, slowdowns, refusal to handle goods or any other interference with the Employer's business.

C. Stewards and/or alternates have no authority to take strike action, or any other action interrupting the Employer's business, except as authorized by official action by the Union.

D. The Employer recognizes these limitations upon the authority of stewards and/or alternates, and shall not hold the

Union liable for any unauthorized acts in violation of this Agreement.

E. Stewards shall be permitted to investigate, present and process grievances without loss of time or pay. Such time spent in handling grievances shall be considered working hours in computing daily and/or weekly overtime.

## 5. BASIC CREW

The Employer agrees to employ continuously six (6) persons in his present employ. These shall constitute the basic crew, and shall not be subject to layoffs at any time.

## 6. DISCHARGE

A. The Employer retains the right to discharge for just and sufficient cause. In the event of a desire to discharge, the Employer shall notify the Union in writing in advance of such desire to discharge. In the event of a disagreement between the Union and the Employer as to such discharge, it shall be submitted to arbitration according to the provisions of this Agreement. Until such time as a ruling of the arbitration shall be given, the employee shall be retained on the job. However, in the case of

Drunkenness
Stealing
Direct Insubordination

the Employer may discharge the employee, subject to the requirement that the Employer must give the Union immediate written notice thereof, setting forth details of such discharge and the Union's right to submit the matter to arbitration.

B. A discharged or suspended employee must advise the Union in writing, within two (2) working days after receiving notification of such action against him, of his desire to appeal the discharge or suspension. Notice of appeal from discharge or suspension must be made to the Employer in writing within five (5) days from the date of discharge or suspension.

## 7. HOURS

A. The regular working hours shall be a full week of forty (40) hours per week, eight (8) hours per day, five (5) days per week, Monday to Friday, inclusive. The working hours shall start at 7:00 A.M. and end at 6:00 P.M. The hours of daily employment shall be consecutive and may be interrupted for lunch only, which shall be for a period of one-half (½) hour.

B. Should any employee work more than the regular scheduled hours in any one day, or beyond his scheduled quitting time, or more than the regular scheduled hours in any one work week, he shall be paid for such overtime at the rate of time and one-half. Employees who work on Saturdays shall be guaranteed a minimum of

C. Sunday shall be a double-time day.

8. WAGES

c

| Start | 30 days | 6 mos. | 9 mos. | 12 mos. | 16 mos. | 20 mos. |
|---|---|---|---|---|---|---|
| $2.75 | $3.20 | $3.40 | $3.50 | $142.00 | $147.00 | $152.00 |
| (pr.hr.) | (pr.hr.) | (pr.hr.) | (pr.hr.) | (40 hrs.) | (40 hrs.) | (40 hrs.) |

| 24 mos. | 28 mos. | 32 mos. | 36 mos. |
|---|---|---|---|
| $167.00 | $172.00 | $177.00 | $182.00 |
| (40 hrs.) | (40 hrs.) | (40 hrs.) | (40hrs.) |

9. A. Work Clothes - work jackets, gloves, and safety equipment shall be paid by Company.

B. Car Allowance - $25.00 to $35.00 per week, depending on mileage. (Employee's personal car, when used for Company business)

10. HOLIDAYS

The Employer agrees to pay his employees eight (8) hours pay and/or wages for the following holidays, irrespective of the day on which it falls, as if they worked thereon:

New Year's Day
Lincoln's Birthday
Washington's Birthday
Good Friday
Decoration Day

July 4th
Labor Day
Veteran's Day
Thanksgiving Day
Christmas Day

Holiday falls on Saturday celebrated Friday.

Holiday falls on Sunday celebrated Monday.

The employee shall work the day before and the day after a holiday.

Any business day that the firm closes for business each employee shall be paid. Any day that is declared a legal holiday by government edict shall be with pay.

No employee shall be required to work on a holiday unless the Union consents. In the event an employee shall work on a holiday with the consent of the Union, he shall receive pay at the rate of time and one-half. In the event a holiday falls on the employee's customary day of rest, then the employee shall be entitled to an additional day off on the following work day with pay. Saturday shall be considered an eight (8) hour day.

11. VACATIONS

All employees who shall have been employed for a period of one (1) year shall receive a vacation of a least one (1) week with pay in advance. All employees who shall have been employed for a period of three (3) years shall receive a vacation of at least two (2) weeks with pay in advance. Should a holiday occur during the vacation period of any employee, such employee shall be entitled to an additional day of pay. Pro-rata pay shall be applied to those employees who shall be fired or shall quit short of completed time.

The Employer shall designate the date for vacation and notify the employee no less than two (2) weeks in advance of vacation date for such employee. He shall not, without the consent of the employee, change such date. Those employees who have received a longer vacation with pay in the past shall continue to receive the same vacation. All employees who work more than twenty-four (24) Saturdays a year shall receive their vacation pay to include Saturday pay.

## 12. ANNUAL LEAVE

A. 1. No employee shall be dischaged because of absence due to illness, or any other unavoidable cause.

2. Such employee shall receive not more than six (6) days annual leave in any calendar year.

### BEREAVEMENT

B. In the event of death in immediate family of the employee: wife, child, father, mother, sister, brother, and legal guardian, the Employer shall grant three (3) days off with pay.

## 13. WELFARE COVERAGE

All employees covered by this Agreement shall receive Blue Cross/Blue Shield to be paid for wholly by the Employer.

## 14. ADJUSTMENT OF DISPUTES

Adjustment of all complaints, controversies, disputes and grievances arising between the Employer and the Union of the terms of this Agreement, shall be undertaken in accordance with the following procedures, The matter shall be first taken up by representatives of the Employer and the Stewards; if such dispute cannot be so adjusted by these persons, the matter shall be taken up by representatives of the Employer and the Union, and if no adjustment can be arrived at, the dispute shall be submitted to the Arbitrator within twenty-four (24) hours after written notice has been given by either side to the other of the inability to adjust. Such written notice, as well as any other notice provided for in this Agreement, shall be given to the Union at its headquarters, and to the Employer at his place of business.

The Arbitrator, as herein above mentioned, shall be selected by both sides by mutual agreement. In the event both sides fail to mutually agree on an Arbitrator within twenty-four (24) hours, either

The decision of the Arbitrator shall be final and binding upon both parties and shall a fully enforceable. It ' understood that the Arbitrator shall not have the power to amend, modify, alter or subtract from this Agreement or any provision thereof. It is agreed that time is of the essence in any arbitration, and both parties will exert their best efforts to obtain a speedy decision.

The arbitration procedure herein set forth is the sole and exclusive remedy of the parties hereto and the workers covered hereby for any claimed violations of this contract, and for any and all acts or omissions claimed to have been committed by either party during the term of this Agreement, and such arbitration procedure shall be (except to enforce, vacate or modify awards) in lieu of any kind and all other remedies, forums at law, inequities or otherwise which will or may be available to either of the parties. The waiver of all other remedies and forums herein set forth, shall apply to the parties hereto, and to all of the workers covered by this contract. No individual worker may initiate an arbitration proceeding.

Adjustment of all complaints, controversies, disputes and grievances arising between the Employer and the Trust Funds of the terms of this Agreement, shall be undertaken in accordance with the following procedure: The matter shall be first taken up by representatives of the Employer and the Funds; if such dispute cannot be so adjusted by these persons, the dispute shall be submitted to one of the Arbitrators named below:-

New York - Mr. Harry Silverman

Any Employer who fails to pay the required contributions to the fringe benefit funds provided for herein, shall be personally responsible to the employees herein covered for the benefits which would have been provided by such insurance coverage.

Failure of the Employer to comply with this article shall be considered a material breach of this Agreement and the Union shall have the right, anything to the contrary herein contained notwithstanding, to take such action as may be necessary until compliance has been made with this article, and it is further agreed that in the event such action is taken, the Employer shall be responsible to the employees for losses resulting therefrom.

In spite of the above arbitration procedure, violation of this contract is the cause for strike.

## 15. THE UNION AS THE PARTY AT INTEREST

The Union shall require the employees to comply with the terms of this Agreement. The parties agree that the maintenance of a peaceable and constructive relationship between the Employer and the employees requires the establishment and cooperative use of the machinery provided for in this contract for the discussion and determination of grievances and disputes, and that it would detract from this relationship if the individual employee or groups of employees would, either as such individuals or groups seek to inbility. It is, therefore, agreed that this contract shall not vest or create in any employee or group of employees covered thereby any rights or remedies which they or any of them can enforce either at law, equity, or otherwise, it being understood and agreed, on the contrary, that all of the rights and privileges created or implied from this contract shall be enforced only by the parties hereto, and only in the manner established by this contract.

## 16. GENERAL PROVISIONS

The Employer shall show no discrimination against or favoritism among its employees for Union activities or otherwise. No minor under the age of eighteen (18) years shall be employed by the Employer. This Agreement may not be modified by any employee or group of employees without the joint written consent of the Union and the Employer.

The Employer will permit a leave of absence without pay for any employee elected or appointed to a full-time position on the Union's staff. Such leave of absence shall continue in effect throughout the period of said employee's term of service, without loss of status of employment or seniority.

The Union's representative may visit the firm's premises for the purpose of investigating working conditions or conferring with the Employer or employees.

Each employee shall be covered by Unemployment Insurance.

Any employee who is drafted or volunteers or serves not more than one period in the Armed Forces of the United States or its subdivisions, shall upon completion of such service or training, be restored to the exact status, including any general wage increase that he would have had if his employment had not been interrupted.

The Employer shall at all times adhere to Federal and State Safety Regulation Rules regarding vehicles driven by his employees.

It shall not be a violation of this Agreement, and it shall not be cause for discharge or disciplinary action in the event an employee refuses to enter upon any property involved in a primary labor dispute, or refuses to go through or work behind any primary picket line, including the primary picket line of Unions party to this Agreement, and including primary picket lines at the Employer's places of business.

The Company shall not require, request or suggest that an employee or applicant for employment take a polygraph or any other form of lie detector test.

Struck Goods - It shall not be a violation of this Agreement and it shall not be a cause for discharge or disciplinary action if any employee refuses to perform any service which his Employer undertakes to perform as an ally of an Employer or person whose employees are on strike, and which service, but for such strikes, would be performed by the employees of the Employer or person on strike.

Non-Discrimination Clause - The Employer and the Union agree not to discriminate against any individual with respect to hiring, compensation, terms or conditions of employment because of such individual's race, color, religion, sex, national origin or age (between the years of 40 and 65), nor will they limit, segregate or classify employees in any way to deprive any individual employee of employment opportunities because of race, color, religion, sex, national origin or age (between the years of 40 and 65).

The Company and the Union agree that there will be no discrimination by the Company or the Union against any employee because of his or her membership in the Union or because of any employee's lawful activity and/or support of the Union.

## 17. UNION SIGNS

The Employer agrees that it will display in its establishment six (6) union signs to be supplied by the Union, indicating that the Employer is a Union establishment or that it is signed up with the Union. For the right to use such signs, the Employer shall pay the sum of ten (10) dollars per sign, per year. The signs shall be used only so long as the Employer is under contractual relations with the Union and is not in violation of any of the terms and conditions of the Union Agreement.

## 18. FIXED FINANCIAL AGREEMENTS

All wages, salaries, commissions, and other fixed financial arrangements and benefits of employees in effect at the date hereof or increased hereafter, shall not be reduced, nor the hours of employment be increased by the employer, anything contained in this Agreement to the contrary notwithstanding.

## 19. LIQUIDATION

Should the Employer desire to or voluntarily be forced to liquidate his business, he must notify the Union at least thirty (30 days in advance and the employees shall be retained on the job until liquidation is completed.

Any future place of business owned or operated by the Employer shall be covered.

## 20. SUCCESSORS AND ASSIGNS

In the event that the Employer should sell, assign, transfer or otherwise dispose of this business, he agrees to notify the Union of his intention to do so at least thirty (30) days prior to the said transfer or assignment.

## 21. SAVINGS CLAUSE

If any term, provision or condition of this contract is held to be unlawful, illegal, inviolation of law or its enforcement prevented or delayed by any governmental action, including but not limited to a wage freeze order, the parties will confer in an effort to agree upon suitable substitutions therefor and, if they fail to agree, the same shall be considered a grievance and submitted to arbitration in accordance with the arbitration provisions thereof. The arbitrator in such arbitration shall be instructed by the parties hereto that it is their intention that in such event the essence and spirit of the provisions so held unenforceable or delayed, are desired to be retained to the extent permitted by law; and the arbitrator shall further be instructed that his function shall be limited to choosing proper substitutes for the provisions held to be unenforceable or delayed from the written proposals submitted to him by the parties hereto without any power or authority on his part to write any now provisions or amend any of the proposals submitted by either of the parties. The party demanding arbitration shall submit in writing with demand therefor the substitutes which it proposes in the place of the provisions held to be unenforceable or delayed. No provisions of this contract shall be considered to have been held unenforceable or delayed unless and until final adjudications shall have been made by a court or governmental agency or competent`jurisdiction in a proceeding or action involving such provisions. Until such final adjudication the parties shall continue to perform each and every provisions thereof.

## 22. EFFECTIVE DATE

This Agreement shall go into effect as of September 13th, 1974, and shall continue in full force and effect until September 12th, 1977 and it shall automatically be renewed from year to year thereafter unless notification be given in writing by either party to the other, by Certified Mail, at least sixty (60) days prior to the expiration of this Agreement, that changes in the Agreement are desired.

In the event of an extension or renewal of this Agreement, it is agreed that yearly on each anniversary date, they will renegotiate wages, progressions, minima and other working conditions In the event the parties fail to agree on such matters, the matters in dispute shall be arbitrated in accordance with the arbitration provisions of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our respective hands and seals, the day and year above written.

| | |
|---|---|
| SCIENTIFIC PEST CONTROL CORP. | LOCAL 522 AFFILIATED WITH INTER-<br>NATIONAL BROTHERHOOD OF TEAMSTER |
| BY: ______________________ | BY: ______________________ |

AGREEMENT made this 13th day of September 1974, by and between SCIENTIFIC PEST CONTROL CORP., 599 Lake Avenue, St. James, New York, hereinafter called the "EMPLOYER" and LOCAL 522, AFFILIATED WITH INTERNATIONAL BROTHERHOOD OF TEAMSTERS, OF NEW JERSEY AND THE GREATER METROPOLITAN AREA, hereinafter called the "UNION".

It is hereby agreed between the above parties, that all seasonal help must become a member of the Union after one hundred and twenty (120) working days.

SCIENTIFIC PEST CONTROL CORP.

BY:____________________

TITLE:____________________

LOCAL 522, AFFILIATED WITH
INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

BY:____________________

TITLE:____________________

SCIENTIFIC PEST CONTROL CORP.

September 13th, 1974

To be discussed:

MINIMUM RATES - See Schedule "A"

All present employees who have finished the progression period as per Agreement, shall receive as of September 13th, 1974, a ten (.10) cents per hour minimum wage increase. As of September 13th, 1975, all present employees who have finished the progression period as per Agreement, shall receive a twenty-five (.25) cents per hour minimum wage increase.

Sept 13, 1977

# Memorandum of Agreement

GCX6

Agreement made this 13th day of September 1977 by and between Scientific Pest Control Corp 599 Lake Ave. St James N.Y. hereinafter called the "Employer" and Local 522 Aff. with International Brotherhood of Teamsters, of New Jersey and the Greater Metropolitan Area, hereinafter called the "Union" for and on behalf of itself, the employees now employed and hereafter to be employed by the employer and collectively designated as employees.

Whereas, the Employer recognizes the Union aforesaid as the only Union representing its employees, and agrees to deal collectively only with the Union.

Now, therefore, in Consideration of the mutual covenants, promises and agreements herein contained, the parties do hereby agree as follows:

1. Standard provisions for recognition and Union Shop.
2. Standard provisions for new workers
3. Seniority

all persons employed for a period of [illegible] 30 days, shall be Considered

9/13/74

# Page 2

a permanent employee and shall be entitled to seniority rights. All layoffs shall be in the inverse order of seniority, i.e., the last person hired shall be the first person laid off. The employer agrees to give notice of layoff. In the event that additional employees shall be needed, all persons previously laid off shall be the first person to be rehired. Stewards shall be entitled to top seniority. There shall be overall company seniority whenever practicable.

4. Standard Provisions for steward
5. Standard Provisions for basic crew (10 employees)
6. Standard Provisions for discharge, (Drunkenness Stealing & Direct Insubordination)
7. Standard Provisions for working hours (Employees who work on Saturday shall be guaranteed a minimum of 4 hours of work at time and one half.

8 Wages

| | | | |
|---|---|---|---|
| Starting Rates | $2.75 per hr | 9 mos of employ | $3.60 per hr |
| 30 days of employ | 3.20 " " | 12 mos of employ | $142.00 (40 hrs) |
| 6 mos of employ | 3.40 " " | 15 mos of employ | 147.00 " |

9/13/74

| | |
|---|---|
| 20 mos of employ $152.00 (40 hrs) | 37 mos of employ $177.00 (40 hrs) |
| 24 mos of employ 167.00 " | 36 mos of employ 152.00 ( " ) |
| 28 mos of employ 172.00 " | |

9 Holidays

Standard Provisions: New Year, Lincoln Birthday, Washington Birthday, Good Friday, Decoration Day, July 4th, Labor day, Veterans day Thanksgiving, Christmas.

10. Vacation

Standard Provisions (1 yr 1 wk, 3 yrs 2 wks. The employer shall designate the day of vacation.

11 Annual Leave

Standard Provisions - 6 days with pay

12 Bereavement

Standard Provisions. 3 days with pay.

13. Hospitalization - Company shall provide Blue Cross and Blue Shield coverage for its employees, to be paid by the employer.

14. Work Clothes and Safety Equipment to be paid by the employer. (Safety Equip, work jackets, gloves and glasses

15 Car allowance - employees who use their automobiles for company business shall receive between $25.00 and $35.00 per week, depending on mileage.

16. Adjustment of disputes
Standard provisions
(Arbitrator Mr Harry Silverman)

17 The Union as the party ~~of~~ at Interest
Standard Provisions

18 General Provisions - Standard

19. Union Signs - Standard provision (6 Union signs)

20. Fixed Financial Agreements
Standard provisions

21. Liquidation:
Should the employer desire to or voluntarily be forced to liquidate his business, he must notify the Union at least 30 days in advance and the employees shall be retained on the job until liquidation is completed
Any future place of business owned or operated by the Employer shall be Covered.

22 Successors and Assigns -
Standard Provision

23 Savings Clause
Standard provisions

This agreement shall go into effect as of September 13, 1974 and shall Continue in full force and effect until September 12, 1977, and it shall automatically renewed from year to year thereafter unless

9/3/74

Page 5

notification be given in writing by either party to the other, by certified mail, at least 60 days prior to the expiration of this Agreement, that changes in the Agreement are desired.

In the event of an extension or renewal of this Agreement, it is agreed that yearly on each anniversary date, they will re-negotiate wages, progressions, minima and other working conditions. In the event the parties fail to agree on such matter, the matters in dispute shall be arbitrated in accordance with the arbitrations provisions of this agreement.

In Witness Whereof, we have hereunto set our respective hands and seals, the day and year first above written.

M.G. Committee:
James A. Melville
Ronald Page
John Michalicka
Paul Scocca Jr.
Joseph [illegible]
Harold G. [illegible]

Local 522 Affiliated With
International Brotherhood
of Teamsters
By: Sam J. Casalino
Title: Vice Pres.

Employers Agent for Post Contractors
By: Pasquale J. Gordon
Title Pres.

GCX 7

**LOCAL UNION 522**
LUMBER DRIVERS, WAREHOUSEMEN & HANDLERS
Affiliated with
International Brotherhood of Teamsters, Chauffeurs,
Warehousemen and Helpers of America

STEPHEN KINGSTON, Jr.
President
SAM J. CASALINO
Vice-President
ARTHUR SCHNEIDER
Secretary-Treasurer
WILLIE JONES
Recording Secretary
TRUSTEES
ANDREW BARRAL
MICHAEL IACOVINO
JAMES ROBERTS

NEW YORK OFFICE:
139-16 91st Avenue
Jamaica, N.Y. 11435
212-291-5220

NEW JERSEY OFFICE:
233 Broad Street
Elizabeth, N.J. 07201
201-354-0522

October 18, 1974

Scientific Pest Control
599 Lake Avenue
St. James, New York

Dear Sir:

Please be advised that in accordance with our current Collective Bargaining Agreement the employees whose names appear below have not met the requirements of the Union security clause of the said Union Agreement. The said employees have failed to comply with their obligations under the Union shop clause.

We request, therefor, that the employment of said employees be terminated, effective no later than Oct. 21, 1974, unless on or before said date the said named employees pay to the Union an amount equal to the initiation fee and dues owing to the Union.

We will advise you if said employees meet their financial obligations as above required. Failure to hear from us shall be considered evidence of their continued refusal to perform as provided under the terms of the Union agreement.

Very truly yours,

LOCAL 522 AFF. WITH I.B. of T.

Arthur Schneider

Arthur Schneider
Secretary Treasurer

William Roupp

Dennis Balz

Sal De Meo

436

GCX8

NAME William C Raupp CLOCK NUMBER DEPT Wilbur 2 ✓
STREET 135 S Hillside Ave SOC SEC NUMBER 056-42-8348 M
CITY Wiscasset YEAR 74 PHONE NO 265-9248 DATE STARTED 11-21-73 DATE LEFT 12-6-74

3
OT
HR
OT 435

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  |  | EARNINGS |  |  |  | DEDUCTIONS |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  | TOTAL PAY | SOC SEC |  | State | D/S | Com | 3k | Ato |  | NET AMOUNT | CHK NUMB |
| 1-1-74 | 40 | 120- |  |  | 120- | 7.02 | 14.60 | 2.90 | .30 |  |  |  |  | 95.18 | 729 |
| 1-8 | 40 | 120- |  |  | 120- | 7.02 | 14.60 | 2.90 | .30 |  |  |  |  | 95.18 | 742 |
| 1-15 | 40 | 120- |  |  | 120- | 7.02 | 14.60 | 2.90 | .30 |  |  |  |  | 95.18 | 78 |
| X 1-22 | 40 | 120- |  |  | 120- | 7.02 | 14.60 | 2.90 | .30 |  |  |  |  | 95.18 | 80 |
| X 1-29 | 32 | 120 |  | Sch | 120 | 7.02 | 14.60 | 2.90 | .30 |  |  |  |  | 95.18 | 760 |
| X 2-5 | 40 | 120 |  |  | 120 | 7.02 | 14.60 | 2.90 | .30 | 16- |  |  |  | 111.18 | 762 |
| X 2-12 | 40 | 120 |  |  | 120 | 7.02 | 14.60 | 2.90 | .30 | [illegible] |  |  |  | 95.18 | 779 |
| X 2-19 | 40 | 120 |  |  | 120 | 7.02 | 14.60 | 2.90 | .30 |  |  |  |  | 95.18 | 8[illegible] |
| X 2-26 | 40 | 120 |  |  | 120 | 7.02 | 14.60 | 2.90 | .30 | 22.50 |  |  | 117.68 | ~~95.18~~ | 84[illegible] |
| X 3-5 | 40 | 120 |  |  | 120 | 7.02 | 14.60 | 2.90 | .30 | 6- |  |  |  | 101.18 | 863 |
| X 3-12 | 40 | 120 |  |  | 120 | 7.02 | 14.60 | 2.90 | .30 |  |  |  |  | 95.18 | [illegible] |
| X 3-19 | 40 | 120 |  |  | 120 | 7.02 | 14.60 | 2.90 | .30 |  |  |  |  | 95.18 | 910 |
| X 3-25 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 | 14.00 |  |  |  | 129.12 | 93 |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  | 1590- |  | 196.60 | 39.20 |  | 58.50 |  |  |  |  |  |
| X 4-2 | 40 | 150- |  |  | 150- | 8.78 | 21.40 | 4.40 | .30 | 7 |  |  |  | 122.12 | 952 |
| X 4-9 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 | 7 |  |  |  | 122.12 | 955 |
| X 4-16 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 |  |  |  |  | 115.12 | 101 |
| X 4-23 | 40 | 150- |  |  | 150- | 8.78 | 21.40 | 4.40 | .30 |  |  |  |  | 115.12 | 103 |
| X 4.30 | 40 | 150- |  |  | 150- | 8.78 | 21.40 | 4.40 | .30 | 54- |  |  |  | 169.12 | 106 |
| X 5-7 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 |  |  |  |  | 115.12 | 108 |
| X 5-14 | 40 | 150- |  |  | 150- | 8.78 | 21.40 | 4.40 | .30 |  |  |  |  | 115.12 | 112 |
| X 5-21 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 | 49.50 |  |  |  | 164.62 | 115 |
| X 5-28 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 | 7- |  |  |  | 122.12 | 118 |
| X 6-4 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 |  |  |  |  | 115.12 | 1220 |
| X 6-11 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 |  |  |  |  | 115.12 | 125 |
| X 6-18 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 |  |  |  |  | 115.12 | 12 |
| X 6-25 | 40 | 150 |  |  | 150 | 8.78 | 21.40 | 4.40 | .30 |  |  |  |  | 115.12 | 1307 |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  | [illegible] |  |  | 3.90 |  |  |  |  | [illegible] |  |
|  |  |  |  |  | 1950- |  | 278.20 | 57.20 |  | [illegible] |  |  |  |  |  |

PAYROLL LEDGER

437 [redacted]

3.125 S1 2.90
4.35

CLOCK NUMBER ____ SOC SEC NUMBER ____ MARITAL STATUS M NO. OF EXEMPT 2 DEPT ____

NAME William Lopp ADDRESS ____

2

| PAY PERIOD ENDING | TIME WORKED • | TIME WORKED | REGULAR EARNINGS | | | TOTAL PAY | SOC SEC | INCOME TAX | State | D/B | Comm | B/C | auto | Vacn | NET AMOUNT | CHECK NUMBER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| EARNINGS | | | | | | | DEDUCTIONS | | | | | | | | | |
| 7-2 | 40 | 2 | 150- | | | 150- | 878 | 2140 | 440 | 30 | 700 | | | | 122.12 | 1332 |
| 7-9 | 40 | 2 | 150 | | | 150 | 878 | 2140 | 440 | 30 | | | | | 115.12 | 1361 |
| 7-16 | 40 | 2 | 150 | | | 150 | 878 | 2140 | 440 | 30 | 700 | | | | 122.12 | 1384 |
| 7-23 | 40 | 2 | | | | 150 | 878 | 2140 | 440 | 30 | | | | | 115.12 | 1406 |
| 7-30 | 40 | 2 | | | | 150 | 878 | 2140 | 440 | 30 | | | | | 115.12 | 1426 |
| 8-6 | 40 | 2 | | | | 150 | 878 | 2140 | 440 | 30 | | | | | 115.12 | 1449 |
| 8-13 | 40 | 2 | | | | 150 | 878 | 2140 | 440 | 30 | | | | | 115.12 | 1472 |
| 8-20 | 40 | 2 | | | | 150 | 878 | 2140 | 440 | 30 | | | | | 115.12 | 1495 |
| 8-27 | 40 | 2 | | | | 150 | 878- | 2140 | 440 | 30 | 25- | | | | 90.12 | 1517 |
| 9-3 | 40 | 2 | | | | 150- | 878 | 2140 | 440 | 30 | | | | | 115.12 | 1539 |
| 9-10 | 40 | 2 | | | | 150 | 878 | 2140 | 440 | 30 | | | | | 115.12 | 1562 |
| 9-17 | 40 | 2 | | | | 125- | 731 | 1870 | 380 | 30 | | | 25- | | 119.89 | 1585 |
| 9-24 | 40 | 2 | | | | 125- | 731 | 1870 | 380 | 30 | | | 25- | | 119.89 | 1607 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| O | | | | | | 1900- | | 272.8 | 56- | | 39- | | 50- | | | |
| T | | | | | | | | | | | | | | | | |
| 10-1 | 40 | 2 | | | | 125 | 731 | 1870 | 380 | 30 | | | 25- | | 11989 | 1618 |
| 10-8 | 40 | 2 | | | | 125 | 731 | 870 | 380 | 30 | | | 25- | | 119.89 | 1647 |
| 10-15 | 40 | 2 | | | | 125 | 731 | 1870 | 380 | 30 | | | 25- | | 119.89 | 1678 |
| 10-15 | 24 | | | | | 75 | 439 | 8- | 150 | 30 | | | | | 60.81 | 1685 |
| | | | | | | ~~50~~ | | | ~~80~~ | ~~25~~ | | | ~~10-~~ | | | |
| 10-29 | 8 | | 7.9 | | | 25 | 146 | 1.01 | .10 | .13 | | | 5- | | 18.21 | |
| 11-5 | 40 | 2 | Car trouble 3 hrs %0 | | | 125- | 731 | 1870 | 380 | 30 | | | 25 | | 119.89 | 1732 |
| 11-12 | 40 | 2 | | | | 125 | 731 | 1870 | 380 | 30 | ✓ | | 25- | | 119.89 | 1755 |
| 11-19 | 34 | | 1 Car Trouble | | | 92.80 | 5.13 | 11.40 | 220 | 30 | | | 20- | | 93.47 | 1776 |
| 11-26 | 22 | 22.23<br>25.26 | 3½ Day Car trouble | | | 63.80 | 3.73 | 5.90 | 120 | 30 | | | 15- | | 67.67 | 1801 |
| 12-3 | 24 | | | | | 69.60 | 407 | 700 | 130 | 30 | | | 15- | | 71.93 | 1837 |
| 12-10 | 24 | 4.5<br>6 | | | | 6960 | 407 | 700 | 130 | 30 | | | 5 | | 71.93 | 1856 |
| B2 | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| O | | | | | | 1020.80 | 5970 | 122.90 | 26.60 | 312 | | | 195- | | 993.47 | |
| T | | | | | | | | | | | | | | | | |

PAYROLL LEDGER

438

GCX9

438

October 23, 1974

Mr. William C. Raupp
135 South Hillside Avene
Nesconset, New York 11767

Dear Mr. Raupp:

Please report back to work on Tuesday October 29, 1974, at 8:00 AM. Kindly report to our Port Washington Branch office which is located at 88 South Baylies Avenue. Your work and rate of pay will be the same.

Thank you,

S.J. Giordano

GCX10

October 25, 1974

Mr. Dennis Balz
132 48th Street
Lindenhurst, New York 11757

Dear Mr. Balz:

Please report back to work on Monday October 28, 1974, at 8:00 AM. Kindly report to our Port Washington Branch office which is located at 83 South Baylis Avenue. Your work and rate of pay will be the same.

Thank you,

S.J. Giordano
President

440

EXTERMINATORS AND FUMIGATORS LOCAL 155

*Building Service Employees International Union*

AFFILIATED WITH

AFL - CIO • New York State Federation of Labor

Central Trades and Labor & Council No. 11 of B. S. E. I. U.

249 WEST 34th STREET, NEW YORK, N. Y. 10001

PEnnsylvania 6-4614

September 9, 1974

Mr. Sal Giordano
C/O Scientific Pest Control Corp.
599 Lake Ave.
St. James, Long Island
New York [illegible]

Dear Mr. Giordano:

Your employees employed at the above premises have designated Local 155, S.E.I.U., AFL-CIO,CLC as their representative for collective bargaining purposes pursuant to Labor Law of the State of New York. Please contact us at the above address, (Exterminators, Fumigators, & Termite Workers, Local 155, 249 West 34th Street New York City 10001), in order to set up a meeting to negotiate a collective bargaining agreement between the parties.

Very truly yours,

Patrick Carroll
President - Local 155

PC/a

NATIONAL LABOR RELATIONS BOARD
Docket No. 9C OFFICIAL EXHIBIT NO. 12 A
Disposition
Identified ✓
Received
Rejected
In the matter of Scientific
Witness
Reporter
No. Pages

441

GCX 12 (B)

GCEX173 [illegible] 9-21-74

No. 455215

RETURN RECEIPT REQUESTED

**RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)**

SENT TO: Mr. Sam [illegible]

STREET AND NO.: [illegible]

P.O., STATE AND ZIP CODE: [illegible]

POSTMARK OR DATE: SEP 1974

OPTIONAL SERVICES FOR ADDITIONAL FEES

RETURN RECEIPT SERVICES
1. Shows to whom and date delivered ........ 15¢
With delivery to addressee only ........ 65¢
2. Shows to whom, date and where delivered .. 35¢
With delivery to addressee only ........ 85¢

DELIVER TO ADDRESSEE ONLY ........ 50¢

SPECIAL DELIVERY (extra fee required)

PS Form 3800 Apr. 1971

NO INSURANCE COVERAGE PROVIDED—NOT FOR INTERNATIONAL MAIL

(See other side)

☆ GPO : 1972 O - 4[illegible]

Front & Back

---

STICK POSTAGE STAMPS TO ARTICLE TO COVER POSTAGE (first class or airmail), CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified-mail number and your name and address on a return receipt card, Form 3811, and attach it to the back of the article by means of the gummed ends. Endorse front of article RETURN RECEIPT REQUESTED.
4. If you want the article delivered only to the addressee, endorse it on the front DELIVER TO ADDRESSEE ONLY. Place the same endorsement in line 2 of the return receipt card if that service is requested.
5. Save this receipt and present it if you make inquiry.

442

GCX12(C)

Front

&

Back

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

JAN 1973

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

**SENDER INSTRUCTIONS**
Print your name, address, and ZIP Code in the space below.
- Complete items 1 and 2 on the reverse side.
- Moisten gummed ends and attach to back of article.

RETURN
TO

[illegible]
[illegible] 155
[illegible] City
[illegible]

---

SENDER: Complete items 1 and 2.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered............ 15¢
☐ Show to whom, date, & address of delivery.. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered..........
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery.......................................... 85¢

2. ARTICLE ADDRESSED TO:

[illegible]

3. ARTICLE DESCRIPTION:

| REGISTERED NO. | CERTIFIED NO. | INSURED NO. |
|---|---|---|
|  | # [illegible] 17[illegible] |  |

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE

4. DATE OF DELIVERY

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

PS Form 3811, Rev. 1973

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆ GPO : 1974 O - 527-403

443

# EXTERMINATORS AND FUMIGATORS LOCAL 155

*Building Service Employees International Union*

AFFILIATED WITH

AFL - CIO

New York State Federation of Labor

Central Trades and Labor & Council No. 11 of B. S. E. I. U.

249 WEST 34th STREET, NEW YORK, N. Y. 10001

PEnnsylvania 6-4614

September [illegible], 197[illegible]

Mr. [illegible]
Scientific Pest Control Corp.
[illegible]
[illegible], N. Y.,

[illegible]:

[illegible]

Sincerely,

[illegible]
President - Local [illegible]

9C [illegible] 1319

[illegible]

4-21-75 [illegible]

BEST COPY AVAILABLE

444

GCx 13(B)

No. 381265

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

| | |
|---|---|
| SENT TO [illegible] | POSTMARK OR DATE<br>7-13-[illegible] |
| STREET AND NO. [illegible] | |
| P.O., STATE AND ZIP CODE [illegible] | |
| OPTIONAL SERVICES FOR ADDITIONAL FEES | |
| RETURN RECEIPT SERVICES 1. Shows to whom and date delivered ........ 15¢ | |
| With delivery to addressee only ........ 65¢ | |
| 2. Shows to whom, date and where delivered ........ 35¢ | |
| With delivery to addressee only ........ 85¢ | |
| DELIVER TO ADDRESSEE ONLY ........ 50¢ | |
| SPECIAL DELIVERY (extra fee required) ........ | (See other side) |

PS Form 3800 Apr. 1971

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

GPO

Front

STICK POSTAGE STAMPS TO ARTICLE TO COVER POSTAGE (first class or airmail), CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified-mail number and your name and address on a return receipt card, Form 3811, and attach it to the back of the article by means of the gummed ends. Endorse front of article RETURN RECEIPT REQUESTED.
4. If you want the article delivered only to the addressee, endorse it on the front DELIVER TO ADDRESSEE ONLY. Place the same endorsement in line 2 of the return receipt card if that service is requested.
5. Save this receipt and present it if you make inquiry.

GCX 13(C)

U.S. POSTAL SERVICE
OFFICIAL BUSINESS

PS Form 3811 Sep. 1972

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

Postmark of Delivering Office

**SENDER INSTRUCTIONS**

Print in the space below your name, address, including ZIP Code.
- If special services are desired, check blocks on other side.
- Moisten gummed ends and attach to back of article.

[illegible]
[illegible]
[illegible]
[illegible]

CONTINUE (Be sure to follow instructions on other side)

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional fees are required for these services)

☐ Show address where delivered ☐ Deliver ONLY to addressee

RECEIPT
Received the numbered article described below

| | |
|---|---|
| REGISTERED NO. | SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in) |
| CERTIFIED NO.<br>331465 | SIGNATURE OF ADDRESSEE'S AGENT, IF ANY |
| INSURED NO. | |
| DATE DELIVERED<br>9/13/77 | SHOW WHERE DELIVERED (only if requested, and include ZIP Code) |